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Juvenile Crime.

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Juvenile Crime. Initiative Statute.

Official Title and Summary Prepared by the Attorney General

JUVENILE CRIME. INITIATIVE STATUTE.

- Increases punishment for gang-related felonies; death penalty for gang-related murder; indeterminate life sentences for home-invasion robbery, carjacking, witness intimidation and drive-by shootings; and creates crime of recruiting for gang activities; and authorizes wiretapping for gang activities.
- Requires adult trial for juveniles 14 or older charged with murder or specified sex offenses.
- Eliminates informal probation for juveniles committing felonies.
- Requires registration for gang related offenses.
- Designates additional crimes as violent and serious felonies, thereby making offenders subject to longer sentences.

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

- State costs: Ongoing annual costs of more than \$330 million. One-time costs of about \$750 million.
 - Local costs: Potential ongoing annual costs of tens of millions of dollars to more than \$100 million. Potential one-time costs in the range of \$200 million to \$300 million.
-



Overview

This measure makes various changes to laws specifically related to the treatment of juvenile offenders. In addition, it changes laws for juveniles and adults who are gang-related offenders, and those who commit violent and serious crimes. Specifically, it:

- Requires more juvenile offenders to be tried in adult court.
- Requires that certain juvenile offenders be held in local or state correctional facilities.
- Changes the types of probation available for juvenile felons.
- Reduces confidentiality protections for juvenile offenders.
- Increases penalties for gang-related crimes and requires convicted gang members to register with local law enforcement agencies.
- Increases criminal penalties for certain serious and violent offenses.

The most significant changes and their fiscal effects are discussed below.

Prosecution of Juveniles in Adult Court

Background. Currently, a minor 14 years of age or older can be tried as an adult for certain offenses. Generally, in order for this to occur, the prosecutor must file a petition with the juvenile court asking the court to transfer the juvenile to adult court for prosecution. The juvenile court then holds a hearing to determine whether the minor should be transferred. However, if an offender is 14 years of age or older, has previously committed a felony, and is accused of committing one of a specified list of violent crimes, then that offender must be prosecuted in adult court.

Proposal. This measure changes the procedures under which juveniles are transferred from juvenile court to adult court. Juveniles 14 years of age or older charged with committing certain types of murder or a serious sex offense generally would no longer be eligible for juvenile court and would have to be tried in adult court. In addition, prosecutors would be allowed to directly file charges against juvenile offenders in adult court under a variety of circumstances without first obtaining permission of the juvenile court.

Fiscal Effect. The fiscal effect of these changes is unknown and would depend primarily on the extent to which prosecutors use their new discretion to increase the number of juveniles transferred from juvenile to adult court. If they elect to transfer only the cases that they currently ask the juvenile court to transfer, then the fiscal impact on counties and the state could likely be some small savings because the courts currently grant most of the requests of the prosecutors. However, if prosecutors use their new discretion to expand the use of adult courts for juvenile offenders, the combined costs to counties and the state could be significant. Specifically,

the annual operating costs to counties to house these offenders before their adult court disposition could be tens of millions of dollars to more than \$100 million annually, with one-time construction costs of \$200 million to \$300 million.

Juvenile Incarceration and Detention

Background. Under existing law, probation departments generally can decide whether a juvenile arrested for a crime can be released or should be detained in juvenile hall pending action by the court. These determinations generally are based on whether there is space in the juvenile hall and the severity of the crime. The main exception concerns offenses involving the personal use or possession of a firearm, in which case the offender must be detained until he or she can be brought before a judge. Most juveniles detained in juvenile halls for a long time are awaiting court action for very serious or violent offenses.

If, after a hearing, a court declares a juvenile offender a delinquent (similar to a conviction in adult court), the court in consultation with the probation department, will decide where to place the juvenile. Generally, those options range from probation within the community to placement in a county juvenile detention facility or placement with the California Youth Authority (CYA).

For juveniles tried as adults, the adult criminal court can generally, depending on the circumstances, commit the juvenile to the jurisdiction of either the CYA or the California Department of Corrections (CDC). In addition, juvenile offenders convicted in adult court who were *not* transferred there by the juvenile court can petition the adult court to be returned to juvenile court for a juvenile court sanction, such as probation or commitment to a local juvenile detention facility.

Because current law prohibits housing juveniles with adult inmates or detainees, any juvenile housed in an adult jail or prison must be kept separate from the adults. As a result, most juveniles—even those who have been tried in adult court or are awaiting action by the court—are housed in a juvenile facility such as the juvenile hall or the CYA until they reach the age of 18.

Proposal. Under this measure probation departments would no longer have the discretion to determine if juveniles arrested for any one of more than 30 specific serious or violent crimes should be released or detained until they can be brought before a judge. Rather, such detention would be required under this measure. In addition, the measure requires the juvenile court to commit certain offenders declared delinquent by the court to a secure facility (such as a juvenile hall, ranch or camp, or CYA). It also requires that any juvenile 16 years of age or older who is convicted in adult court must be sentenced to CDC instead of CYA.

Fiscal Effect. Because this measure requires that certain juvenile offenders be detained in a secure facility,

it would result in unknown, potentially significant, costs to counties.

Requiring juveniles convicted in adult court to be sentenced to CDC would probably result in some net state savings because it is cheaper to house a person in CDC than in CYA.

A number of research studies indicate that juveniles who receive an adult court sanction tend to commit more crimes and return to prison more often than juveniles who are sent to juvenile facilities. Thus, this provision may result in unknown future costs to the state and local criminal justice systems.

Changes in Juvenile Probation

Background. Statewide there are more than 100,000 juvenile offenders annually on probation. Most are on “formal” probation, while the remainder are on “informal” probation. Under formal probation, a juvenile has been found by a court to be a delinquent, while under informal probation there has been no such finding. In most informal probation cases, no court hearing has been held because the probation department can directly impose this type of sanction. If the juvenile successfully completes the informal probation, he or she will have no record of a juvenile crime.

Proposal. This measure generally prohibits the use of informal probation for any juvenile offender who commits a felony. Instead, it requires that these offenders appear in court, but allows the court to impose a newly created sanction called “deferred entry of judgment.” Like informal probation, this sanction would result in the dismissal of charges if an offender successfully completes the term of probation.

Fiscal Effect. On a statewide basis the fiscal effect of these changes is not likely to be significant. In those counties where a large portion of the informal probation caseload is made up of felony offenders, there would be some increased costs for both the state and the county to handle an increased number of court proceedings for these offenders. In addition, county probation departments would face some unknown, but probably minor, costs to enforce the deferred entry of judgment sanction.

Juvenile Record Confidentiality and Criminal History

Background. Current law protects the confidentiality of criminal record information on juvenile offenders. However, such protections are more limited for juvenile felons and those juveniles charged with serious felonies.

Proposal. This measure reduces confidentiality protections for juvenile suspects and offenders by:

- Barring the sealing or destruction of a juvenile offense record for any minor 14 years of age or older who has committed a serious or violent offense, instead of requiring them to wait six years from when the crime was committed as provided under current law.
- Allowing law enforcement agencies the discretion to disclose the name of a juvenile charged with a serious felony at the time of arrest, instead of requiring them to wait until a charge has been filed as under current law.
- Providing law enforcement agencies with the discretion to release the name of a juvenile suspect

alleged to have committed a violent offense whenever release of the information would assist in apprehending the minor and protecting public safety, instead of requiring a court order as under current law.

In addition, this measure requires the California Department of Justice (DOJ) to maintain complete records of the criminal histories for all juvenile felons, not just those who have committed serious or violent felonies.

Fiscal Effect. These provisions would result in some savings to counties for not having to seal the records of certain juvenile offenders. There would also be unknown, but probably minor, costs to state and local governments to report the complete criminal histories for juvenile felons to DOJ, and to the state for DOJ to maintain the new information.

Gang Provisions

Background. Current law generally defines “gangs” as any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of certain crimes. Under current law, anyone convicted of a gang-related crime can receive an extra prison term of one, two, or three years.

Proposal. This measure increases the extra prison terms for gang-related crimes to two, three, or four years, unless they are serious or violent crimes in which case the new extra prison terms would be five and ten years, respectively. In addition, this measure adds gang-related murder to the list of “special circumstances” that make offenders eligible for the death penalty. It also makes it easier to prosecute crimes related to gang recruitment, expands the law on conspiracy to include gang-related activities, allows wider use of “wiretaps” against known or suspected gang members, and requires anyone convicted of a gang-related offense to register with local law enforcement agencies.

Fiscal Effect. The extra prison sentences added by the measure would result in some offenders spending more time in state prison, thus increasing costs to the state for operating and constructing prisons. The CDC estimates the measure would result in ongoing annual costs of about \$30 million and one-time construction costs totaling about \$70 million by 2025 to house these offenders for longer periods.

Local law enforcement agencies would incur unknown annual costs to implement and enforce the gang registration provisions.

Serious and Violent Felony Offenses

Background. Under current law, anyone convicted of a serious or violent offense is subject to a longer prison sentence, restrictive bail and probation rules, and certain prohibitions on plea bargaining. The “Three Strikes and You’re Out” law provides longer prison sentences for new offenses committed by persons previously convicted of a violent or serious offense. In addition, persons convicted of violent offenses must serve at least 85 percent of their sentence before they can be released (most offenders must serve at least 50 percent of their sentence).

Proposal. This measure revises the lists of specific crimes defined as serious or violent offenses, thus making most of them subject to the longer sentence

provisions of existing law related to serious and violent offenses. In addition, these crimes would count as “strikes” under the Three Strikes law.

Fiscal Effect. This measure’s provision adding new serious and violent felonies, combined with placing the new offenses under the Three Strikes law, will result in some offenders spending longer periods of time in state prison, thereby increasing the costs of operating and constructing prisons. The CDC estimates that the measure would result in ongoing annual state costs of about \$300 million and one-time construction costs totaling about \$675 million in the long term. The measure could also result in unknown, but potentially significant, costs to local governments to detain these offenders pending trial, and to prosecute them.

These additional costs may be offset somewhat for the state and local governments by potential savings if these longer sentences result in fewer crimes being committed.

Summary of Fiscal Effects

State. We estimate that this measure would result in ongoing annual costs to the state of more than \$330 million and one-time costs totaling about \$750 million in the long term.

Local. We estimate that this measure could result in ongoing annual costs to local governments of tens of millions of dollars to more than \$100 million, and one-time costs of \$200 million to \$300 million.

A summary of the fiscal effects of the measure is shown in Figure 1.

Figure 1		
Proposition 21		
Summary of Fiscal Effects of Major Provisions		
	Fiscal Effect	
	State	Local
Prosecution of Juveniles in Adult Court		
<i>Changes procedures for transferring juveniles to adult court, thereby increasing the number of such transfers.</i>	Unknown court costs for additional cases in adult court.	Unknown, potentially ranges from small savings to annual costs of more than \$100 million and one-time costs of \$200 million to \$300 million.
Juvenile Incarceration and Detention		
<i>Requires secure detention or placement of certain juvenile offenders, as well as commitment to state prison for juveniles 16 years of age and older convicted in adult court.</i>	Unknown, some net savings for less costly commitments.	Unknown, potentially significant costs.
Changes in Probation		
<i>Changes the types of probation available for juvenile felons.</i>	Some court costs to formally handle more juvenile offenders.	Potential costs in some counties, but not significant on a statewide basis.
Juvenile Record Confidentiality and Criminal History		
<i>Reduces confidentiality protections for juvenile offenders and requires the California Department of Justice to maintain criminal history records on all juvenile felons.</i>	Minor costs to report and compile criminal histories.	Minor savings due to elimination of procedural requirements.
Gang Provisions		
<i>Increases penalties for gang-related crimes and requires gang members to register with local law enforcement agencies.</i>	Annual cost of about \$30 million and one-time costs of about \$70 million.	Unknown costs for gang member registry.
Violent and Serious Felony Offenses		
<i>Adds crimes to the serious and violent felony lists, thereby making offenders subject to longer prison sentences.</i>	Annual costs of about \$300 million and one-time costs of about \$675 million.	Unknown, potentially significant costs to detain additional offenders pending trial and to prosecute them.

For text of Proposition 21 see page 119



Juvenile Crime. Initiative Statute.

Argument in Favor of Proposition 21

As a parent, Maggie Elvey refused to believe teenagers were capable of extreme violence, until a 15 year-old and an accomplice bludgeoned her husband to death with a steel pipe. Ross Elvey is gone forever, but his KILLER WILL BE FREE ON HIS 25TH BIRTHDAY, WITHOUT A CRIMINAL RECORD. Her husband's killer will be released in three years, but she will spend the rest of her life in fear that he will make good on his threats to her. Frighteningly, Maggie's tragedy because of the current juvenile justice system could be repeated today.

Proposition 21—the Gang Violence and Juvenile Crime Prevention Act—will toughen the law to safeguard you and your family.

Despite great strides made recently in the war against adult crime, California Department of Justice records indicate *violent juvenile crime arrests—murders, rapes, robberies, attempted murders and aggravated assaults—rose an astounding 60.6% between 1983 and 1998.* The FBI estimates the California juvenile population will increase by more than 33% over the next fifteen years, leading to predictions of a juvenile crime wave.

Although we strongly support preventive mentoring and education, the law must be strengthened to require serious consequences, protecting you from the most violent juvenile criminals and gang offenders.

Proposition 21:

- Prescribes LIFE IMPRISONMENT FOR GANG MEMBERS convicted of HOME-INVASION ROBBERIES, CARJACKINGS OR DRIVE-BY SHOOTINGS.
- Makes ASSAULT WITH A FIREARM AGAINST POLICE, SCHOOL EMPLOYEES OR FIREFIGHTERS a serious felony.
- STRENGTHENS ANTI-GANG LAWS making violent gang-related felonies “strikes” under the Three Strikes law.
- Requires ADULT TRIAL FOR juveniles 14 or older charged with MURDER OR VIOLENT SEX OFFENSES.
- Requires GANG MEMBERS CONVICTED OF GANG FELONIES TO REGISTER WITH LOCAL LAW ENFORCEMENT.

Proposition 21 doesn't incarcerate kids for minor offenses—it protects Californians from violent criminals who have no respect for human life.

Ask yourself, if a violent gang member believes the worst punishment he might receive for a gang-ordered murder is incarceration at the California Youth Authority until age 25, will that stop him from taking a life? Of course not, and THAT'S WHY CALIFORNIA POLICE OFFICERS AND PROSECUTORS OVERWHELMINGLY ENDORSE PROPOSITION 21.

Proposition 21 ends the “slap on the wrist” of current law by imposing real consequences for GANG MEMBERS, RAPISTS AND MURDERERS who cannot be reached through prevention or education.

Californians must send a clear message that violent juvenile criminals will be held accountable for their actions and that the punishment will fit the crime. YOUTH SHOULD NOT BE AN EXCUSE FOR MURDER, RAPE OR ANY VIOLENT ACT—BUT IT IS UNDER CALIFORNIA'S DANGEROUSLY LENIENT EXISTING LAW.

We represent the California District Attorneys Association, California State Sheriffs Association, California Police Chiefs Association, crime victims, business leaders, educators and over 650,000 law-abiding citizens that placed Proposition 21 on the ballot.

Our quality of life depends on making California as safe as possible. Let's give all kids every opportunity to succeed and protect our families against the most dangerous few.

Please vote YES on PROPOSITION 21.

MAGGIE ELVEY

Assistant Director, Crime Victims United

GROVER TRASK

President, California District Attorneys Association

CHIEF RICHARD TEFANK

President, California Police Chiefs Association

Rebuttal to Argument in Favor of Proposition 21

Proponents have GROSSLY MISREPRESENTED HOW THE LAW WORKS. The 15 year old in the Elvey case was sentenced in 1993. The next year lawmakers lowered the age for adult court to 14. UNDER CURRENT LAW, MINORS 14 AND OLDER CHARGED WITH MURDER ARE NORMALLY TRIED AS ADULTS. UPON CONVICTION, THESE MINORS RECEIVE THE ADULT SENTENCE UP TO LIFE IMPRISONMENT WITHOUT PAROLE. The proponents should know better, and they probably do. *They are using scare tactics to sell a massive legal overhaul, filled with self-interest items, and loaded with HUNDREDS OF MILLIONS OF DOLLARS IN COSTS that could raise your taxes.*

PRESIDING JUDGE James Milliken (San Diego Juvenile Court) says: “I can already send 14 year olds with violent offenses to adult court. Proposition 21 would let prosecutors move kids like mentally impaired children to adult court where they don't belong, *without judicial review.* These important decisions must be reviewed by an impartial judge.”

Proposition 21 is NOT LIMITED TO VIOLENT CRIME. It turns low-level vandalism into a felony. It requires gang

offenders with misdemeanors (like stealing candy) to serve six months in jail. SHERIFF Mike Hennessey (S.F.) says, “I support tough laws against gangs and crime, but Proposition 21 is the WRONG APPROACH.”

Join the respected professional, citizen and victim organizations AGAINST PROPOSITION 21—including Marc Klaas/KlaasKids Foundation, California Chief Probation Officers, California Council of Churches, League of Women Voters, California Catholic Conference, Children's Defense Fund, California State PTA and California Tax Reform Association. Vote NO on 21.

ALLEN BREED

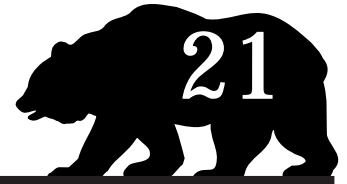
Former Director, California Youth Authority

LARRY PRICE

Chief Probation Officer, Fresno County

FATHER GREGORY BOYLE

Member, California State Commission on Juvenile Justice, Crime and Delinquency Prevention



Juvenile Crime. Initiative Statute.

Argument Against Proposition 21

PROPOSITION 21 CARRIES A HUGE PRICE TAG—YOU WILL PAY FOR IT.

Proposition 21 creates a long list of new crimes and penalties for children and adults. Because of Proposition 21, California will need more jails and prisons. YOUR TAXES MAY HAVE TO BE RAISED TO PAY FOR PROPOSITION 21. California's Legislative Analyst reports that Proposition 21 will cost local governments "tens of millions of dollars" and state government "hundreds of millions" of dollars each year. The Department of Corrections estimates that Proposition 21 will require a capital outlay of nearly \$1,000,000,000 (one billion dollars) for prison expansion. We already have the nation's biggest prison system. Californians have other needs—like better schools, health care and transportation—that will be sacrificed so that you can pay the huge Proposition 21 price tag.

PROPOSITION 21 WILL PUT KIDS IN STATE PRISONS.

Proposition 21 will send a new wave of 16 and 17 year olds to state prison. In prison, without the treatment and education available in the juvenile system, they will be confined in institutions housing adult criminals. What will these young people learn in state prison—how to be better criminals? Our nation has a tragic record of sexual and physical assault on children who are jailed with adults.

CALIFORNIA ALREADY HAS TOUGH LAWS AGAINST GANGS AND YOUTH CRIME.

California law already allows children and gang members as young as 14 to be tried and sentenced as adults. California already has the nation's highest youth incarceration rate—more than twice the national average! Police, prosecutors and judges have strong tools under current law to prosecute and punish gang members who commit violent crimes.

PROPOSITION 21 WILL HARM CURRENT EFFORTS TO PREVENT GANG AND SCHOOL VIOLENCE.

Proposition 21 does nothing to build safer schools or communities. It will not stop tragedies like the Colorado school shooting, and it will not keep kids from joining gangs. But, Proposition 21 will capture your tax dollars and take them away from current efforts to stop violence before it happens. Last year, the current Governor and the Legislature approved programs to prevent youth violence—like after-school programs that keep kids off the streets. Proposition 21 threatens the survival of these programs.

DON'T RISK HIGHER TAXES FOR A HIGH-PRICED ANTI-YOUTH PACKAGE WE DON'T NEED.

Proposition 21 was drafted over two years ago by former Governor Pete Wilson. It is an extreme measure that will result in more incarceration of children and minority youth. We don't need it. California's tough anti-crime laws are already working to reduce crime and violence. Since 1990, California's felony arrest rate for juveniles has dropped 30% and arrests of juveniles for homicide have plummeted 50%. Proposition 21 asks you to spend billions of future tax dollars for penalties and prisons that are extra baggage. DON'T THROW AWAY MONEY WE NEED FOR BETTER SCHOOLS, BETTER ROADS AND BETTER HEALTH CARE. DON'T RISK HIGHER TAXES FOR OUT-DATED REFORMS. VOTE NO ON PROPOSITION 21.

LAVONNE McBROOM
President, California State PTA

GAIL DRYDEN
President, League of Women Voters of California

RAYMOND WINGERD
President, Chief Probation Officers of California

Rebuttal to Argument Against Proposition 21

DON'T BE DECEIVED BY THE ARGUMENTS AGAINST PROPOSITION 21. It doesn't lock up kids for minor offenses, place minors in contact with adult inmates, or raise your taxes! It's not about typical teenagers who make stupid mistakes; these kids can be reached through mentoring, prevention and rehabilitation.

Proposition 21 protects you and your family by holding juveniles and gang members *accountable for violent crime*. It's necessary because violent *juvenile* crime has increased *more than 60% over the last 15 years*. We must be clear: **YOUTH IS NO EXCUSE FOR RAPE AND MURDER.**

While prevention programs are important, by themselves they don't deter hardened gang members from committing rape and murder. Proposition 21 ensures appropriate punishment for juveniles convicted of these vicious offenses.

DON'T BE MISLED: *State law prohibits placing juveniles in contact with adult inmates and offers juveniles educational programs.* Proposition 21 doesn't change this!

DON'T BE DECEIVED: In 1994, the same *special interests* that today oppose Proposition 21 claimed the "Three Strikes"

law would raise your taxes and cost billions, without reducing crime. *Wrong!* According to the California Department of Justice, "Three Strikes" has **SAVED TAXPAYERS BILLIONS** while **DRAMATICALLY REDUCING ADULT CRIME**. *Furthermore, the two largest tax cuts in California history have occurred since "Three Strikes" passed overwhelmingly.*

Law enforcement officials throughout California witness daily the tragic consequences of violent juvenile crime. That's why they agree Proposition 21 is vital to protecting California communities.

Vote to *reduce violent juvenile and gang related crime*. Please vote yes on 21.

SHERIFF HAL BARKER
President, California Peace Officers Association

ELAINE BUSH
Former Director, California Mentor Initiative

COLLENE CAMPBELL (THOMPSON)
Founder, Memory of Victims Everywhere