BILL NUMBER: SB 1223 AMENDED

BILL TEXT

AMENDED IN SENATE MAY 24, 2004

AMENDED IN SENATE MARCH 16, 2004

INTRODUCED BY Senator Kuehl

*(Coauthor: Senator Romero)*

FEBRUARY 11, 2004

An act to add Section 1170.195 to the Penal Code, relating to

juvenile crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 1223, as amended, Kuehl. Criminal law: juveniles.

Existing law provides for the prosecution of certain minors in

adult court rather than in juvenile court.

This bill would  *state legislative intent regarding its*

*provisions, and would*  , except as specified, give sentencing

courts the discretion to review and reduce, suspend, or reduce and

suspend the sentence of a minor who was prosecuted as an adult, after

the person has served 10 years of his or her sentence or has reached

the age of 25. This bill would authorize the court to consider

specified evidence, in conjunction with any other evidence the court

considers relevant, in making this determination.  *It would also*

*permit a 2nd review only in the event of a substantial change in*

*circumstance.*  By changing the penalty for a crime, the bill

would impose a state-mandated local program.

The California Constitution requires the state to reimburse local

agencies and school districts for certain costs mandated by the

state. Statutory provisions establish procedures for making that

reimbursement.

This bill would provide that no reimbursement is required by this

act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.  *It is the intent of the Legislature to provide a*

*judicial mechanism for reconsidering the sentences of persons who*

*were convicted of serious crimes they committed as children after*

*these persons have become adults and served a significant amount of*

*time in state prison.*

*SEC. 2.*  Section 1170.195 is added to the Penal Code, to

read:

1170.195. (a) Notwithstanding  *any other provision of the*

*law, and notwithstanding*  subdivision (b) of Section 1168 and

Section 1170, upon motion and after 30  ~~days~~

*days'*  notice to the prosecution, the sentencing court may

review the sentence of a person, who was under the age of 18 at the

time of the offense and was prosecuted as an adult, after the person

has served 10 years of his or her sentence or after the person has

reached 25 years of age. After reviewing the sentence, the judge may

suspend the sentence, reduce the sentence to any sentence that could

lawfully have been ordered at the time of the original judgement, or

both reduce and suspend the sentence  *, provided that the person*

*at the time of the hearing meets the eligibility criteria of the*

*alternative disposition*  . For purposes of this determination,

the court may consider, in conjunction with any other evidence the

court considers relevant, the person's disciplinary record,

participation in education and other programs, and the testimony of

character witnesses and expert witnesses.  *Each person granted a*

*review shall be entitled to a second review only in the event of a*

*substantial change in circumstance.*

(b) This section does not apply to a person sentenced pursuant to

Section 190.2, subdivisions (b) to (i), inclusive, of Section 667, or

Section 1170.12.

SEC. 2. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution because

the only costs that may be incurred by a local agency or school

district will be incurred because this act creates a new crime or

infraction, eliminates a crime or infraction, or changes the penalty

for a crime or infraction, within the meaning of Section 17556 of the

Government Code, or changes the definition of a crime within the

meaning of Section 6 of Article XIII B of the California

Constitution.