

Introduced by Senator Sher

February 21, 2002

An act to amend Sections 461 and 666 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1719, as introduced, Sher. Sentencing: burglary and petty theft.

Existing law provides the penalty for second degree burglary is imprisonment in a county jail not exceeding one year or in the state prison.

This bill would provide that where a person enters a retail establishment during business hours with the intent to commit petty theft, the punishment would be imprisonment in a county jail not exceeding 6 months, or a fine not exceeding \$1,000 or both imprisonment and the fine.

By requiring convicted persons to be imprisoned in a county jail rather than in the state prison, this bill would impose a state-mandated local program.

Existing law provides that if a person has been convicted of certain offenses, has been imprisoned therefor, and is subsequently convicted of petty theft, then the conviction for the petty theft is punishable by imprisonment in a county jail not exceeding one year, or in the state prison.

This bill would provide instead, that the punishment would be imprisonment in a county jail not exceeding one year.

By requiring convicted persons to be imprisoned in a county jail rather than in the state prison, this 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:

1 SECTION 1. Section 461 of the Penal Code is amended to
2 read:

3 461. Burglary is punishable as follows:

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5 (a) Burglary in the first degree: *is punishable* by imprisonment
6 in the state prison for two, four, or six years.

7 ~~2.—Burglary~~

8 (b) *Except as provided in subdivision (c), burglary in the*
9 *second degree: is punishable* by imprisonment in the county jail
10 not exceeding one year or in the state prison.

11 (c) *A person who enters any retail establishment during*
12 *business hours with the intent to commit petty theft is punishable*
13 *as a misdemeanor.*

14 SEC. 2. Section 666 of the Penal Code is amended to read:

15 666. Every person who, having been convicted of petty theft,
16 grand theft, auto theft under Section 10851 of the Vehicle Code,
17 burglary, carjacking, robbery, or a felony violation of Section 496
18 and having served a term therefor in any penal institution or having
19 been imprisoned therein as a condition of probation for that
20 offense, is subsequently convicted of petty theft, then the person
21 convicted of that subsequent offense is punishable by
22 imprisonment in the county jail not exceeding one year, ~~or in the~~
23 ~~state prison.~~

24 SEC. 3. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of



1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

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