SENATE BILL   No. 110

Introduced by ~~Senator Romero~~ *Senators Romero and Perata*

January 18, 2007

An act to add Title 6.5 (commencing with Section 4950) to Part 3 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

SB 110, as amended, Romero. Sentencing commission.

Existing law prescribes various penalties for criminal offenses.

This bill would ~~declare the intent of the Legislature to create an independent, balanced, and nonpartisan sentencing commission~~ *state legislative findings and declarations regarding criminal sentencing laws and policies. This bill would create the California Sentencing Commission, chaired by the Chief Justice of the California Supreme Court,* to ~~identify, collect, and review data relevant to the operation of the criminal justice and correctional system, and to~~ develop and implement a ~~comprehensive~~ *new* sentencing ~~structure~~ *system, that shall specify sentences imposed for infractions, misdemeanors, alternate felonies or misdemeanors, and felonies unless rejected by the Legislature by statute. This bill would specify the membership of the commission and each member's term of office, and provide that commission shall appoint an executive director and hire necessary staff.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

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

1   *SECTION 1. The Legislature hereby finds and declares each*
2 *of the following:*
3   *(a) There are more than 1,000 felony sentencing laws and more*
4 *than 100 felony sentence enhancements across the California*
5 *Codes.*
6   *(b) Although determinate sentencing was designed to create*
7 *uniformity, today sentences for similar crimes can vary*
8 *significantly by county and courtroom depending on the charges*
9 *and enhancements filed by the district attorneys and the sentencing*
10 *choices made by judges regarding probation, jail, or prison.*
11 *Outcomes for offenders also vary depending upon availability of*
12 *correctional resources at the local level, creating inequities along*
13 *county lines.*
14   *(c) States with sentencing commissions have reduced overall*
15 *crime rates by increasing penalties for the most dangerous*
16 *offenders and expanding options for community-based sanctions*
17 *for certain low-level, nonviolent offenders.*
18   *(d) California currently lacks a reliable and comprehensive*
19 *system for collecting and analyzing data related to current and*
20 *historical sentencing practices.*
21   *SEC. 2. In enacting this act it is the intent of the Legislature*
22 *to enhance public safety, promote effective crime reduction*
23 *strategies, base California's sentencing practices on principles of*
24 *fairness, justice, and accountability, and ensure that public*
25 *resources and taxpayer dollars are expended in a way that most*
26 *successfully protects the public from crime and reduces criminal*
27 *recidivism.*
28   *It is the further intent of the Legislature to create the California*
29 *Sentencing Commission comprised of individuals who will provide*
30 *a reasoned, balanced, and independent viewpoint to achieve*
31 *sentencing practices that are grounded in data and based on sound*
32 *policy.*
33   ~~SECTION 1.~~
34   *SEC. 3.* Title 6.5 (commencing with Section 4950) is added to
35 Part 3 of the Penal Code, to read:

1 TITLE 6.5. SENTENCING COMMISSION
2
3 ~~4950. It is the intent of the Legislature to create in state~~
4 ~~government an independent, balanced, and nonpartisan sentencing~~
5 ~~commission. The commission shall identify, collect, and review~~
6 ~~data relevant to the operation of the criminal justice and~~
7 ~~correctional systems in California, and shall develop and implement~~
8 ~~a comprehensive sentencing structure, including, but not limited~~
9 ~~to, sentencing and correctional laws, policies and practices.~~
10 *4950. (a) The California Sentencing Commission is hereby*
11 *created.*
12 *(b) The duties of the California Sentencing Commission shall*
13 *do as follows:*
14 *(1) (A) Develop a new sentencing system by doing all of the*
15 *following:*
16 *(i) Basing the system on fairness, reason, accountability, and*
17 *equity.*
18 *(ii) Specifying the circumstances under which imprisonment for*
19 *an offender is appropriate.*
20 *(iii) Specifying the appropriate length of sentence for certain*
21 *actions based upon the nature of the offense and circumstances of*
22 *the offender.*
23 *(iv) Retaining the statutory classifications of offenses as*
24 *infractions, misdemeanors, alternate felonies or misdemeanors,*
25 *and felonies existing in California as of January 1, 2008, and at*
26 *the discretion of the commission, make recommendations to the*
27 *Legislature regarding any offense classifications that warrant*
28 *revision.*
29 *(v) Considering existing correctional resources, including the*
30 *capacities and needs of local and state correctional facilities.*
31 *(vi) Ensuring that the new sentencing system complies with state*
32 *and federal constitutional mandates.*
33 *(B) Notwithstanding any other provision of law, the sentences*
34 *imposed for commission of infractions, misdemeanors, alternate*
35 *felonies or misdemeanors, and felonies shall be as provided by*
36 *the commission in the new sentencing system created pursuant to*
37 *this paragraph unless rejected by a statute passed by a two-thirds*
38 *vote of the Legislature.*
39 *(2) Serve as a resource and information center with respect to*
40 *state and local sentencing policy.*

1   *(3) (A) Upon the request of the Legislature, provide a fiscal*
2   *analysis of legislation under consideration by the Legislature or*
3   *initiatives.*
4   *(B) At the end of each legislative session, compile a list of all*
5   *legislation that sought to modify sentencing and provide a fiscal*
6   *analysis of the cumulative impact of those measures.*
7   *(4) Establish the following standing committees:*
8   *(A) Community corrections.*
9   *(B) Sentencing policy and practices.*
10   *(C) Postcustodial corrections, including parole policies and*
11   *practices.*
12   *(D) Data collection and analysis.*
13   *(5) Establish ad hoc committees as deemed necessary by the*
14   *commission.*
15   *(c) In order to carry out the duties listed in subdivision (b), the*
16   *sentencing commission shall have access to individual record data*
17   *and information pertaining to offender, offense, criminal history,*
18   *victim impact, sentence, and correctional programming information*
19   *entered from judgment, sentence, and correctional forms for all*
20   *felons.*
21   *Any such information obtained by the commission is confidential.*
22   *It shall be maintained in a manner that meets the highest standards*
23   *of privacy and shall not be disclosed other than for the purpose*
24   *for which it was acquired.*
25   *(d) The commission shall be composed of 20 members, one of*
26   *whom shall be the Secretary of the Department of Corrections and*
27   *Rehabilitation, or his or her designee. One member shall be the*
28   *Chief Justice of the California Supreme Court, who shall chair*
29   *the commission. One member shall be a sitting or retired appellate*
30   *court justice appointed by the Chief Justice of the California*
31   *Supreme Court. Two members shall be sitting or retired trial court*
32   *judges appointed by the Chief Justice of the California Supreme*
33   *Court. One member shall be the Attorney General. One member*
34   *shall be a California district attorney appointed by the Senate*
35   *Committee on Rules. One member shall be a county sheriff*
36   *appointed by the Speaker of the Assembly. One member shall be*
37   *a county mental health director appointed by the Speaker of the*
38   *Assembly. One member shall be an attorney with legal expertise*
39   *in litigating conditions of confinement on behalf of inmates,*
40   *appointed by the Senate Committee on Rules. One member shall*

1 *be a legal scholar with expertise in sentencing law and policy,*
2 *appointed by the Senate Committee on Rules. One member shall*
3 *be an academic expert in criminal justice policy appointed by the*
4 *Speaker of the Assembly. Four members, a public defender, a chief*
5 *probation officer, a rank and file representative with a minimum*
6 *of five years experience working in a state adult correctional*
7 *facility, and a representative of crime victims, shall be appointed*
8 *by the Governor.*
9 *(e) The President pro Tempore of the Senate, the Minority Floor*
10 *Leader of the Senate, the Speaker of the Assembly, and the Minority*
11 *Floor Leader of the Assembly shall serve on the commission as ex*
12 *officio, nonvoting members.*
13 *(f) The terms of the members appointed by the Chief Justice of*
14 *the Supreme Court shall expire on July 1, 2012. The terms of the*
15 *members appointed by the Speaker of the Assembly shall expire*
16 *on July 1, 2012. The terms of the members appointed by the Senate*
17 *Committee on Rules shall expire on July 1, 2012. The terms of the*
18 *members appointed by the Governor shall expire, as follows: two*
19 *on July 1, 2011, and two on July 1, 2012. Successor members shall*
20 *hold office for terms of three years, each term to commence on the*
21 *expiration date of the predecessor. Any appointment to a vacancy*
22 *that occurs for any reason other than the expiration of the term*
23 *shall be for the remainder of the unexpired term. Members are*
24 *eligible for reappointment.*
25 *(g) The commissions shall appoint an executive director and*
26 *hire its own staff necessary to fulfill the commissions's duties. The*
27 *administrative duties of the commissions shall be conducted by*
28 *commission staff physically sited in the Administrative Office of*
29 *the Courts (AOC). All its decisions, analysis, recommendations,*
30 *and other duties shall be independent of the AOC and shall not*
31 *reflect any position of the AOC or be represented as those of the*
32 *AOC.*
33 *(h) For the purposes of expenditures for the support of the*
34 *commission, including the expenses of the members of the*
35 *commission, the commission shall be deemed to be within the*
36 *judicial branch of state government, but the commission shall not*
37 *be subject to the control or direction of any officer or employee*
38 *of the judicial branch except in connection with the appropriation*
39 *of funds approved by the Legislature.*

1   *(i) The members of the commission shall serve without*
2 *compensation, but shall be reimbursed for all necessary expenses*
3 *actually incurred in the performance of their duties.*
4   *(j) The commission is a criminal justice agency within the*
5 *meaning of Section 13101 of the Penal Code.*

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