



JUDICIAL COUNCIL OF CALIFORNIA

520 Capitol Mall, Suite 600 • Sacramento, California 95814-3368
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

September 10, 2020

Hon. Gavin Newsom
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: Assembly Bill 1950 (Kamlager) – Support if amended and funded

Dear Governor Newsom:

The Judicial Council writes to inform you that while we adopted a supported if amended and funded position on AB 1950, those requested changes were not made. AB 1950 provides that a court may not impose a term of probation longer than two years for a felony conviction and one year for a misdemeanor conviction.

The council would have supported the bill if amended to extend the one-year probation term for misdemeanors set by the bill to 18 months, and to address the reduction in SB 678 (Stats. 2009, ch. 608) funding to probation departments that will likely result from the bill as currently drafted. The council also suggests two technical amendments.

The council believes that the one-year probation period for misdemeanors should be extended to 18 months to be consistent with evidence-based practices relating to individuals who have mental health, substance abuse, and co-occurring disorders. Oftentimes as a condition of probation, the court will require that defendants participate in certain programs. The 18-month period allows courts to retain jurisdiction to monitor compliance with those conditions of probation. Moreover, the one-year probation period proposed by the bill could result in many defendants reentering the criminal justice system because they did not receive treatment within

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the appropriate period of time that science recognizes as needed for the individual to be successful. Finally, the council notes that the court retains discretion to order a shorter time of probation and to terminate probation earlier if the court believes that it is appropriate given the progress of the probationer.

In addition, the council also requested that the bill be amended to address the potential reduction in SB 678 funding to probation departments, which are an arm of the courts. If enacted, the bill will likely have a negative impact on the SB 678 funding formula by reducing the total number of individuals on probation as a result of the reduced periods of probation. As a result, if the bill or some other mechanism does not maintain current, incentive-based funding levels for probation departments, there will be a negative effect on the capacity of probation departments to effectively supervise probationers. This would be especially problematic if the voters uphold SB 10 (Hertzberg; Stats. 2018, ch. 244) in the referendum on the November 2020 general election ballot (Proposition 25). The council notes that probation departments would be critical to the successful implementation of SB 10.

Finally, the council recommended amending the bill to: (1) clarify that the exclusion for felonies applies to any offense that includes specific probation lengths within its provisions and not just offenses that also include Penal Code section 667.5 enhancements, and (2) exclude the enhancements for fraud and embezzlement over specified thresholds (Pen. C. § 186.11) from the two-year probation period for certain felonies, which would be consistent with the exclusion for Penal Code section 667.5 enhancements.

Should you have any questions or require additional information, please contact Sharon Reilly at 916-323-3121.

Sincerely,

Sent September 10, 2020

Cory T. Jasperson
Director, Governmental Affairs

CTJ/SR/jh

cc: Hon. Sydney Kamlager, Member of the Assembly
Mr. Anthony Williams, Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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GOVERNMENTAL AFFAIRS

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TANI G. CANTIL-SAKAUYE
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CORY T. JASPERSON
Director, Governmental Affairs

August 11, 2020

Hon. Sydney Kamlager
Member of the Assembly
State Capitol, Room 4015
Sacramento, California 95814

Subject: Assembly Bill 1950 (Kamlager), as amended June 10, 2020 – Support if amended

Dear Assembly Member Kamlager:

The Judicial Council supports AB 1950, if amended, which provides that a court may not impose a term of probation longer than two years for a felony conviction and one year for a misdemeanor conviction. More specifically, the council supports the bill if amended to extend the 12-month probation term for misdemeanors set by the bill to 18-months, and to address the reduction in SB 678 (Stats. 2009, ch. 608) funding to Probation Departments that will likely result from the bill as currently drafted. The council also suggests two technical amendments.

The council believes that the 12-month probation period for misdemeanors should be extended to 18-months to be consistent with evidence-based practices relating to individuals who have mental health, substance abuse, and co-occurring disorders. Oftentimes as a condition of probation, the court will require that defendants participate in certain programs. The eighteen-month period allows courts to retain jurisdiction to monitor compliance with those conditions of probation. Moreover, a 12-month probation period could result in many defendants reentering the criminal justice system because they did not receive treatment within the appropriate period of time science recognizes as needed for the individual to be successful. Finally, the council notes that the court retains discretion to order a shorter time of probation and to terminate probation earlier if the court believes that it is appropriate given the progress of the probationer.

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In addition, the council also requests that bill be amended to address the potential reduction in SB 678 funding to probation departments. If enacted, the bill will likely have a negative impact on the SB 678 funding formula by reducing the total number of individuals on probation as a result of the reduced periods of probation. As a result, if the bill or some other mechanism does not maintain current, incentive-based funding levels for probation departments, there will be a negative effect on ability of probation officers to effectively supervise probationers.

Finally, the council recommends amending the bill to: (1) clarify that the exclusion for felonies applies to any offense that includes specific probation lengths within its provisions and not just offenses that also include Penal Code section 667.5 enhancement, and (2) exclude the enhancements for fraud and embezzlement over specified thresholds (Pen. C. § 186.11) from the two-year probation period for certain felonies, which would be consistent with the exclusion for Penal Code section 667.5 enhancements.

For these reasons, the Judicial Council supports AB 1950 if amended.

Should you have any questions or require additional information, please contact me at 916-323-3121.

Sincerely,

Mailed August 11, 2020

Sharon Reilly
Attorney

SR/jh

cc: Ms. Jessica Devencenzi, Deputy Legislative Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California