



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 L Street, Suite 700 • Sacramento, California 95814-3393
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TANI CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

April 21, 2011

Hon. Tom Ammiano, Chair
Assembly Public Safety Committee
State Capitol, Room 4005
Sacramento, California 95814

Subject: Assembly Bill 520 (Ammiano), as introduced - Oppose
Hearing: Assembly Public Safety Committee – April 26, 2011

Dear Assembly Member Ammiano:

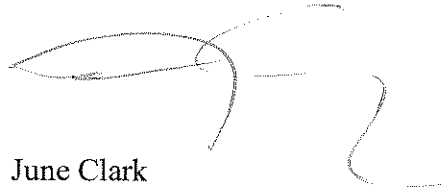
The Judicial Council opposes AB 520, which provides that, effective January 1, 2012, the court may not impose an upper term based on aggravating facts unless facts were first presented to the factfinder and the factfinder found the facts to be true.

The council opposes AB 520 because under current law, courts are vested with broad discretion to fashion appropriate sentences. The bill would diminish the court's discretion by preventing courts from imposing upper terms in the absence of certain findings. We believe that the determination of the existence of aggravating factors should be left to judicial officers' discretion. Although some aggravating factors are fact-driven, others—such as whether the crime was carried out in a manner indicating “planning, sophistication, or professionalism”—are less so, and instead require a determination of relativity and what best serves the interests of justice. The Judicial Council believes this determination is a function of judicial officers, in order to ensure fair and appropriate sentences. Moreover, the committee noted that the bill would result in a substantially longer, bifurcated trial process that would be costly and will cause unnecessary delays in already excessive case loads.

Hon. Tom Ammiano
April 21, 2011
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For these reasons, the Judicial Council opposes AB 520.

Sincerely,

A handwritten signature in dark ink, appearing to read "June Clark", with a large, stylized loop at the end.

June Clark
Senior Attorney

JC/lp/yt

cc: Members, Assembly Public Safety Committee

California Attorneys for Criminal Justice

Ms. Sandy Uribe, Counsel, Assembly Public Safety Committee

Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitzke, Deputy Director of Legislation, Governor's Office of Planning and Research

Mr. Gary Olson, Consultant, Assembly Republican Office of Policy



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May 18, 2011

Hon. Felipe Fuentes, Chair
Assembly Appropriations Committee
State Capitol, Room 2114
Sacramento, California 95814

Subject: AB 520 (Ammiano), as introduced – Fiscal Impact and Statement of Opposition
Hearing: Assembly Appropriations Committee – May 18, 2011

Dear Assembly Member Fuentes:

The Judicial Council opposes AB 520, which provides that, effective January 1, 2012, the court may not impose an upper term based on aggravating facts unless facts were first presented to the factfinder and the factfinder found the facts to be true.

The council opposes AB 520 because under current law, courts are vested with broad discretion to fashion appropriate sentences. The bill would diminish the court's discretion by preventing courts from imposing upper terms in the absence of certain findings. We believe that the determination of the existence of aggravating factors should be left to judicial officers' discretion. Although some aggravating factors are fact-driven, others—such as whether the crime was carried out in a manner indicating “planning, sophistication, or professionalism”—are less so, and instead require a determination of relativity and what best serves the interests of justice. The Judicial Council believes this determination is a function of judicial officers, in order to ensure fair and appropriate sentences. Moreover, the bill would result in a substantially longer, potentially bifurcated trial process that would be costly and will cause unnecessary delays in already excessive case loads.

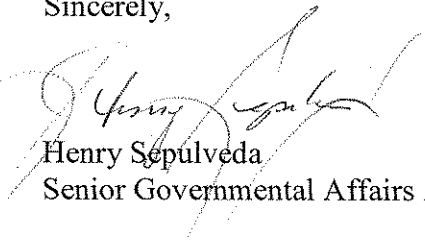
Fiscal Impact

Based on information published by the California Department of Corrections and Rehabilitation (CDCR) covering the period from January–June 2010, we estimate that each year there are approximately 10,000 felon admissions to CDCR with a flag indicating that the defendant received at least one upper term sentence.

Assuming that a hearing on sentencing enhancement would require three hours (average) for additional courtroom time (estimated at \$1,700/hearing) for the prosecution and the defense to present the case and witnesses, and that a jury would require one additional day (estimated at \$200/day) to deliberate on the enhancement issue, we estimate that AB 520 would result in up to \$19 million in additional annual costs to the courts (based on 10,000 cases each year).

Please contact me at 916-323-3121 or henry.sepulveda@jud.ca.gov if you would like further information or have any questions about the fiscal impact of this legislation on the judicial branch.

Sincerely,



Henry Sepulveda
Senior Governmental Affairs Analyst

HS/yt

cc: Members, Assembly Appropriations Committee

Hon. Tom Ammiano, Member of the Assembly

Mr. Curtis Notsinneh, Senior Legislative Aide, Office of Assembly Member Ammiano

Mr. Geoff Long, Chief Consultant, Assembly Appropriations Committee

Mr. Allan Cooper, Fiscal Consultant, Assembly Republican Fiscal Office

Mr. Michael Miyao, Budget Analyst, Department of Finance



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RONALD G. OVERHOLT
Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

June 23, 2011

Hon. Loni Hancock, Chair
Senate Public Safety Committee
State Capitol, Room 2082
Sacramento, California 95814

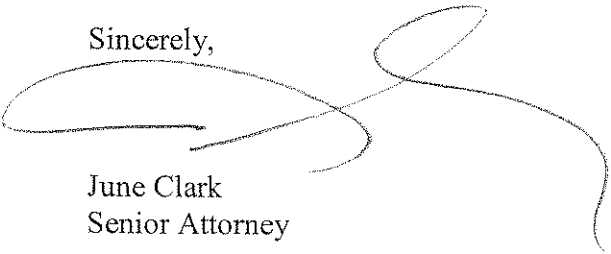
Subject: AB 520 (Ammiano), as amended May 31, 2011 – Withdrawal of opposition
Hearing: Senate Public Safety Committee – July 5, 2011

Dear Senator Hancock:

With the amendments of May 31, 2011, the Judicial Council withdraws its opposition to AB 520.

Thank you very much.

Sincerely,



June Clark
Senior Attorney

JC/yt

cc: Members, Senate Public Safety Committee
Hon. Ton Ammiano, Member of the Assembly
California Attorneys for Criminal Justice
Mr. Steven Meinrath, Counsel, Senate Public Safety Committee
Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Eric Csizmar, Consultant, Senate Republican Office of Policy