



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 L Street, Suite 700 • Sacramento, California 95814-3393
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

KATHLEEN T. HOWARD
Director, Office of Governmental Affairs

April 13, 2005

Hon. Mark Leno, Chair
Assembly Public Safety Committee
State Capitol, Room 3146
Sacramento, California 95814

Subject: AB 1551 (Runner), as introduced – Oppose unless amended
Hearing: Assembly Public Safety Committee – April 19, 2005

Dear Assembly Member Leno:

The Judicial Council opposes AB 1551, unless it is amended to strike the provision eliminating the court's authority under Penal Code section 1385 to dismiss an action in the furtherance of justice. AB 1551 would strengthen the sentencing scheme for sexual assault on children and, among other things, prohibit a court from striking an allegation, admission, or finding of a prior conviction pursuant to Penal Code section 1385 for defendants who are convicted of certain sex offenses. The amendment we request would not frustrate the author's goals, but would merely safeguard a key judicial function.

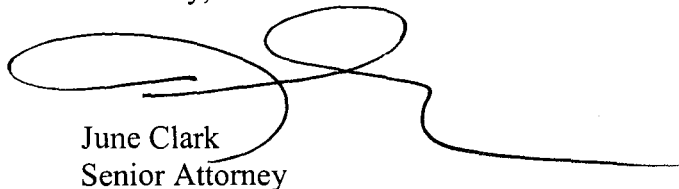
The council has long advocated that, while the discretion is not absolute, dismissal of an action in the furtherance of justice is within the court's "exclusive discretion." (*People v. Johnson* (1966) 247 Cal.App.2d 331, 333; *People v. Parks* (1964) 230 Cal.App.2d 805, 812.) Elimination of this authority inappropriately interferes with a core judicial function, namely the court's ability to accommodate unusual or extraordinary facts.

Hon. Mark Leno
April 13, 2005
Page 2

For these reasons, the Judicial Council opposes AB 1551, unless it is amended as follows:

On page 6, line 34, strike everything after "law." and strike lines 35 through 38. On page 8, strike lines 8 through 11.

Sincerely,



June Clark
Senior Attorney

JC/yt

cc: Members, Assembly Public Safety Committee
Hon. Sharon Runner
Member of the Assembly
Mr. Steve Meinrath, Counsel
Assembly Public Safety Committee
Mr. David LaBahn, Director
California District Attorneys Association
Mr. Gary Olson, Consultant
Assembly Republican Office of Policy
Ms. Karen Pank, Deputy Legislative Secretary
Office of the Governor
Ms. Sue Blake, Assistant Director of Legislation
Office of Planning and Research



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April 4, 2005

Hon. Sharon Runner
Member of the Assembly
State Capitol, Room 6031
Sacramento, California 95814

Subject: AB 1551 (Runner), as introduced – Oppose unless amended

Dear Assembly Member Runner:

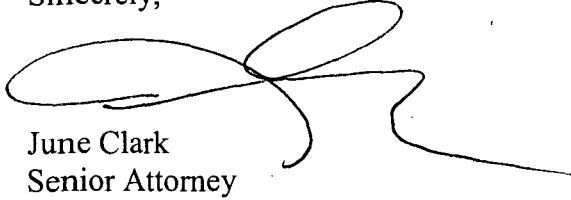
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The council has long advocated that, while the discretion is not absolute, dismissal of an action in the furtherance of justice is within the court's "exclusive discretion." (*People v. Johnson* (1966) 247 Cal.App.2d 331, 333; *People v. Parks* (1964) 230 Cal.App.2d 805,812.) Elimination of this authority inappropriately interferes with a core judicial function, namely the court's ability to accommodate unusual or extraordinary facts.

Hon. Sharon Runner
April 4, 2005
Page 2

For these reasons, the Judicial Council opposes AB 1551, unless it is amended as described.

Sincerely,

A handwritten signature in dark ink, consisting of a large, stylized loop followed by a series of smaller, connected loops and a long, sweeping tail that extends to the right.

June Clark
Senior Attorney

JC/yt

cc: David LaBahn, Director
California District Attorneys Association
Karen Pank, Deputy Legislative Secretary
Office of the Governor
Office of Planning and Research



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May 23, 2005

Hon. Sharon Runner
Member of the Assembly
State Capitol, Room 6031
Sacramento, California 95814

Subject: AB 1551 (Runner), as amended May 18, 2005 – Withdrawal of Opposition

Dear Assembly Member Runner:

The Judicial Council has removed its opposition to AB 1551. The May 18, 2005 amendments resolve the council's concerns of eliminating the court's authority under Penal Code section 1385 to dismiss an action in the furtherance of justice.

If you have any questions regarding this matter, please feel free to contact our office.

Sincerely,

June Clark
Senior Attorney

JC/yt

cc: David LaBahn, Director, California District Attorneys Association
Karen Pank, Deputy Legislative Secretary, Office of the Governor
Sue Blake, Assistant Director of Legislation, Office of Planning and Research