



## Legislation Details (With Text)

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**Title:** Supervisor Briggs recommending the Board of Supervisors oppose Proposition 5, "The Nonviolent Offender Rehabilitation Act of 2008," on the November, 2008 state ballot.  
RECOMMENDED ACTION: Approve.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Complete Prop 5 Text.pdf, 2. Legislative Analyst Office.pdf

Date	Ver.	Action By	Action	Result
2/4/2014	1	Board Of Supervisors	Approved	Pass

Supervisor Briggs recommending the Board of Supervisors oppose Proposition 5, "The Nonviolent Offender Rehabilitation Act of 2008," on the November, 2008 state ballot.

**RECOMMENDED ACTION:** Approve.

Background: According to the official ballot summary as currently worded, Proposition 5:

- Allocates \$460,000,000 annually to improve and expand treatment programs for persons convicted of drug and other offenses.
- Limits court authority to incarcerate offenders who commit certain drug crimes, break drug treatment rules or violate parole.
- Substantially shortens parole for certain drug offenses; increases parole for serious and violent felonies.
- Divides Department of Corrections and Rehabilitation authority between two Secretaries, one with six year fixed term and one serving at the pleasure of Governor. Provides five year fixed terms for deputy secretaries.
- Creates 19 member board to direct parole and rehabilitation policy.

The Legislative Analyst's Office (LAO) Estimate of Net State and Local Government Fiscal Impact includes:

- Increased state costs over time potentially exceeding \$1 billion annually primarily for expanding drug treatment and rehabilitation programs for offenders in state prisons, on parole, and in the community.
- State savings over time potentially exceeding \$1 billion annually due primarily to reduced prison and parole operating costs.
- Net one-time savings on capital outlay costs for prison facilities that eventually could exceed \$2.5 billion

- Unknown net fiscal effect on county operations and capital outlay.

According to the LAO analysis, this measure (1) expands drug treatment diversion programs for criminal offenders, (2) modifies parole supervision procedures and expands prison and parole rehabilitation programs, (3) allows inmates to earn additional time off their prison sentences for participation and performance in rehabilitation programs, (4) reduces certain penalties for marijuana possession, and (5) makes miscellaneous changes to state law related mainly to state administration of rehabilitation and parole programs for offenders.

The complete LAO analysis is attached to this agenda item. Key provisions of Proposition 5 include:

### **Three-Track Drug Treatment System**

Proposition 5 establishes a drug treatment system which diverts offenders into one of three possible treatment programs depending on the level of their prior offense.

#### Track 1: Offenders with no prior violent or serious offenses, but who may have prior drug offenses.

Track 1 is a six to 18 month pre-trial diversion program that does not require probation supervision. An offender who completes an assigned drug treatment program and stays out of trouble would have the charges dismissed.

Track 2: Offenders who have been convicted of a nonviolent drug possession offense. Track 2 is a modified form of existing Proposition 36 programs which would divert eligible participants to treatment and probation for up to a year, or 24 months with extensions. Offenders could not participate in Track 2 if they have had a violent or serious felony on their record during the prior five years. Track 2 allows diversion of offenders who were also convicted at the same time of a non-drug related crime. However, offenders with five or more offenses in the prior 30 months (other than infractions) would be excluded from diversion under Track 2.

Track 3: Offenders who have committed a nonviolent drug possession violation, as well as those who have committed other types of crimes but appear to have a drug problem. Track 3 is similar to existing drug court programs, and would provide treatment and probation supervision in lieu of incarceration in prison or jail for up to 18 months, or 24 months with an extension. Judges would generally be provided discretion as to which nonviolent drug possession offenders would be admitted, except that a drug offender excluded from Track 2 for having five or more prior felonies or misdemeanors in the prior 30 months must be placed in Track 3.

### **Changes to State Parole and Rehabilitation Programs**

Proposition 5 makes a number of changes to the state's current parole system, affecting which offenders can be returned to prison and jail for parole violations, revising and often shortening parole terms, changing parole revocation procedures, and require new program for offenders returning to the community. Proposition 5 generally prohibits certain parolees from being returned to State prison for technical or misdemeanor parole violations, but it would allow revocation of parolees who committed felony violations of parole, were classified high-risk by the California Department of Corrections and Rehabilitation (CDCR), or have violent or serious offenses on their record. Proposition 5 would allow offenders to request up to a year of rehabilitation services within one year after they are discharged from parole. These services would be provided by county probation departments and reimbursed by CDCR.

Proposition 5 creates a new 21-member Parole Reform Oversight and Accountability Board with

authority to review, direct, and approve the rehabilitation programs and to set parole policies. State agencies must collect and report information on the inmate and parole populations and the effectiveness of rehabilitation programs for these offenders, and commission research by a public university on parole policies and practices.

### **New Juvenile Treatment Program**

Proposition 5 creates a new county-operated program for nonviolent youth under age 18 deemed to be at risk of committing future drug offenses. The program would provide drug treatment, mental health medication and counseling, family therapy, educational stipends for higher education, employment stipends and transportation services.

### **Changes in Marijuana Possession Penalties**

Proposition 5 would make the possession of less than 28.5 grams of marijuana by either an adult or a minor an infraction (similar to a traffic ticket) rather than a misdemeanor. Adults would be subject to fines which would be used to provide additional support for the new youth programs created by the measure.

### **Mental Health Provisions**

Proposition 5 would prohibit the denial of drug treatment services to a person due to a psychiatric or developmental disorder. While mental health treatment may be required in addition to drug treatment, it may not be provided in lieu of all other services. Adult offenders, except for parolees, with both a serious mental illness and a substance abuse problem who are in court-supervised drug treatment programs would be considered for mental health services paid for by the Mental Health Services Act (Proposition 63), a 2004 initiative that expanded community mental health services.

### **Funding**

Proposition 5 would require an allocation of \$460 million annually from the State General Fund to the Substance Abuse Treatment Trust Fund (SATTF) for support of the three-track drug treatment diversion program and the program for juvenile treatment services, with periodic adjustments for inflation and changes in population. Proposition 36 alone is currently funded at \$100 million. Proposition 5 would allow the State to impose a requirement for matching funds in order for counties to receive SATTF funds. After funds are set aside for certain administrative and program costs, the measure designates 15 percent of the remainder for Track 1 programs, 60 percent for Track 2 programs, 10 percent for Track 3 programs, and 15 percent for juvenile programs.

Reason for Recommendation:

### **Potential County Impacts**

California State Association of Counties. While acknowledging the need for additional treatment funding, the California State Association of Counties (CSAC) notes in a recent report that Proposition 5 would earmark additional State General Fund revenues for these programs without new revenues. County probation departments would have to provide rehabilitative services to discharged parolees for up to one year for those parolees who opt into the program. While counties are to be reimbursed for such services, sustainability and certainty of funding is a concern. Given the State's fiscal outlook, the measure may result in additional reductions to programs also supported by the State General Fund, and could result in cuts to other county programs. CSAC further cautions that it is not clear how the provision of Proposition 5 will affect the distribution of Proposition 63 funds at the local level, and indicates that Proposition 63 requires counties to undergo extensive community input

processes to determine programming funded by the Proposition.

Legislative Analyst's Office. According to the LAO, Proposition 5 would provide more than \$300 million in additional funding annually for drug treatment diversion programs and juvenile programs that would be operated mainly by counties. While counties are likely to incur increased expenditures over time for the programs, the LAO indicates that the increases are generally in line with the allocations that counties would receive. However, the possibility that the state may require counties to provide matching funds to receive SATTFF funds, and the provisions requiring use of Proposition 63 funds for mentally ill offenders placed in drug treatment diversion programs could increase county costs. The LAO suggests that some counties could face added capital outlay costs for housing parole violators who would be diverted from prison to jails. However, these costs could be offset by the diversion of drug offenders from jails to treatment in the community. The LAO concludes that the full potential impact of Proposition 5 on counties cannot be determined.

## **Support and Opposition**

### Organizations Opposing Prop 5

Los Angeles County Board of Supervisors  
Mothers Against Drunk Driving (MADD)  
Crime Victims United  
California League of United Latin American Citizens  
National Drug-Free Workplace Alliance  
National Association of Drug Court Professionals  
California Police Chiefs Association  
LULAC National Health Commission  
California District Attorneys Association  
California State Sheriffs Association  
California Narcotics Officers Association  
Drug Prevention Network of America  
Californians for Drug Free Schools  
California Association of Drug Court Professionals  
Chief Probation Officers of California  
Los Angeles County Prosecutors Association  
Drug Prevention Network of the Americas  
International Scientific and Medical Forum on Drug Abuse  
Institute on Global Drug Policy  
International Task Force on Strategic Drug Policy  
Students Taking Action Not Drugs (STAND)  
Drug Free America Foundation  
Save Our Society From Drugs (SOS)  
D.A.R.E. America  
Student Drug Testing Coalition  
San Dieguito Alliance

### Organizations Supporting Proposition 5

California Society of Addiction Medicine  
California Academy of Family Physicians  
California Association of Addiction Recovery Resources  
California Association of Alcoholism and Drug Abuse Counselors

County Alcohol and Drug Program Administrators' Association of California  
Coalition of Alcohol and Drug Associations  
California Association for Alcohol and Drug Educators  
California Association of Alcohol and Drug Program Executives  
Aegis Medical Systems, Inc  
AIDS Emergency Fund  
AIDS/HIV Health Alternatives  
Alpha Project for the Homeless  
BAART  
Behavioral Health Services  
Bi-Valley Medical Clinic  
California Hepatitis C Task Force  
California Opioid Maintenance Providers (COMP)  
Common Ground - The Westside HIV Community Center  
CRI-HELP, INC  
F.O.U.N.D  
H.A.A.R.T., Inc  
Hollywood & Vine Recovery Center  
Homeless Health Care Los Angeles  
House of UHURU  
Janus of Santa Cruz  
L.A. CADA - Los Angeles Centers for Alcohol and Drug Abuse  
Long Beach South Bay Substance Abuse Coalition  
Marin Treatment Center, Inc  
National Association on Alcohol, Drugs and Disability  
National Council of Alcoholism & Drug Dependence - Long Beach  
National Council of Alcoholism & Drug Dependence - South Bay  
Nationwide Medical Group, Inc.  
Pathway Society, Inc  
People in Progress  
Practical Recovery Services - La Jolla  
Project Inform  
Responsible Recovery  
San Francisco Health Commission  
Serene Center, Inc.  
Sober Living Network  
Stepping Stone of San Diego  
Tarzana Treatment Centers Inc  
The Drug Abuse Alternatives Center  
The Effort  
The Gardner House  
Western Pacific Med/Corp  
League of Women Voters of California  
Consumer Federation of California  
California Democratic Party  
California Young Democrats  
California State Conference of the NAACP  
Latino Voters League  
Color of Change.Org

[National Latino Congreso](#)

AWARE (Always Working toward Advancing Recovery Environments)  
Women's Council California Chapter National Association of Social Workers  
National Working Positive Coalition  
Association of Community Human Services Agencies  
Education Not Incarceration  
W. Haywood Burns Institute  
Wolfe Center/ Juvenile Justice Network  
Community Justice Network for Youth  
Larkin Street Youth Services  
Students for Sensible Drug Policy  
Youth Justice Coalition/Free LA  
Youth and Family Enrichment Services  
Youth and Family Services  
California Coalition for Ethical Mental Health Care  
California Council of Community Mental Health Agencies  
Mental Health Association in California  
California Church IMPACT  
First African Presbyterian Church - UN Ministry  
Interfaith Drug Policy Initiative  
Progressive Christians Uniting  
Second Chance Evangelist Ministries  
Southern California Ecumenical Council  
California Labor Federation  
American Federation of State, County and Municipal Employees California (AFSCME California)  
SEIU California State Council  
A New PATH (Parents for Addiction Treatment & Healing)  
A New Way of Life Re-entry Project  
Asian Americans for Community Involvement (AACI)  
Downtown Women's Center  
Ex-Offender Action Network  
Friends Outside of Santa Cruz County  
Idriss Stelley Foundation  
Returning Home Foundation  
Santa Cruz Community Action Board  
Santa Cruz Community Counseling Center  
Save Our Sons  
St. Anthony Foundation  
United Job Creation Coalition  
Watts Labor Community Action Committee  
American Civil Liberties Union of Northern California  
American Civil Liberties Union of Southern California  
Center for Health Justice  
Center on Juvenile and Criminal Justice  
California Public Defenders Association  
Ella Baker Center for Human Rights  
Los Angeles Prevention Task Force  
Project Inform  
San Francisco Bay Area Drug Policy Reform  
Southern California HIV Advocacy Coalition

## Stop Prisoner Rape

Action to be taken following Board approval: The Chief Administrative Office will convey the Board's action, if any, on Proposition 5 to relevant departments so they may take positions consistent with the Board's position.

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