
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 124 (Kamlager) - Criminal procedure

Version: July 14, 2021

Urgency: No

Hearing Date: August 26, 2021

Policy Vote: PUB. S. 4 - 0

Mandate: Yes

Consultant: Shaun Naidu

Bill Summary: AB 124 would require courts to consider whether specified trauma to a defendant and other factors contributed to the commission of an offense when making sentencing and resentencing determinations and would expand vacatur relief and the affirmative defense of coercion for human trafficking victims and extend it to victims of intimate partner violence and sexual violence. It also would make a number of other changes to sentencing law.

***** ANALYSIS ADDENDUM – SUSPENSE FILE *****

The following information is revised to reflect amendments
adopted by the committee on August 26, 2021

Fiscal Impact:

- The Department of Justice reports ongoing annual costs ranging from roughly \$1.7 million (and 12.0 new PY) to \$128,000 (and 1.0 new PY) associated with this measure, depending on how many records related to a grant of vacatur relief the department would need to seal and destroy. (General Fund)
- The Judicial Council estimates ongoing annual workload cost pressures ranging from \$600,000 to \$800,000 for clerk processing and court hearing time associated with vacatur petitions. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to increase the amount appropriated to backfill for trial court operations. For illustrative purposes, the Budget Act of 2021 allocates \$118.3 million from the General Fund for insufficient revenue for trial court operations. (General Fund*)
- Unknown costs to the Department of Corrections and Rehabilitation to supervise and transport individuals in state custody to attend hearings to the extent that remote/video appearances at the proceedings are not exercised. (General Fund)
- Unknown potential savings annually in reduced state incarceration costs for individuals because of shorter or avoided term of imprisonment. The FY 2020-2021 per capita cost to detain a person in a state prison is \$112,691 annually, with an annual marginal rate per person of over \$13,000. Actual savings associated with this measure would depend on the number of individuals who avoid a sentence to, or are sentenced or resentenced to a shorter term of incarceration in, state prison than under existing law. Aside from marginal cost savings per individual, however, CDCR would experience an institutional cost savings only if the number of persons incarcerated decreased to a level that would effectuate the closing of a prison yard or wing. (General Fund)

*Trial Court Trust Fund

Committee Amendments: Strike provisions related to consecutive sentences and sentence enhancements. Exclude violent felonies from vacatur relief and the affirmative defense. Limit the mandate on imposing the lower term at sentencing to when the aggravating circumstances outweigh the mitigating circumstances.

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