

Date of Hearing: April 21, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 582 (Patterson) – As Introduced February 11, 2021

Policy Committee: Public Safety

Vote: 7 - 1

Urgency: No

State Mandated Local Program: No

Reimbursable: >

SUMMARY:

This bill increases the penalties for fleeing the scene of an accident resulting in the death of another person from an alternate felony-misdemeanor with a maximum punishment of four years in state prison, to an alternate felony misdemeanor having a maximum punishment of six years in the state prison.

FISCAL EFFECT:

Costs (GF) in the millions of dollars annually to the California Department of Corrections and Rehabilitation (CDCR) in increased incarceration costs. The average annual cost per CDCR inmate is \$84,000. There were approximately 300 new CDCR admissions in 2018 for felony hit and run – 95 of those admissions were for hit and run resulting in death or serious injury. This bill proposes to increase, from four years to six years, the maximum penalty for felony hit and run if death results from the accident. If 10 defendants are sentenced to an additional two years as a result of the increase required by this bill, the total cost to the GF is \$840,000 in the first year and \$1.7 million dollars in the second year.

COMMENTS:

1) **Purpose.** According to the author:

AB 582 will increase the possible penalty for hit-and-runs resulting in great bodily injury or death. By bringing this code more into line with the penalties assessed for vehicular manslaughter and making them greater than a DUI sentence, AB 582 will encourage drivers to stay at the scene of a crime, even if they may be under the influence, as opposed to fleeing the scene. This will help ensure that justice is served in a timely and appropriate manner.

2) **Prison Overcrowding:** CDCR is under a federally ordered population cap. In January 2010, a three-judge panel of the 9th Circuit Court of Appeals issued a ruling ordering the State of California to reduce its prison population to 137.5% of design capacity because overcrowding was found to be the primary reason CDCR was unable to provide inmates with constitutionally adequate healthcare. As of April 2021, CDCR is in compliance with the three-judge panel's order. CDCR's most recent report on prison population notes that the average daily adult inmate population is 95,223 inmates.

However, the current population is artificially low because CDCR stopped accepting prison transfers in April 2020 as a result of COVID-19 and has released thousands of inmates near parole and medically vulnerable to COVID-19. The average daily population will likely increase as transfers resume at a regular rate and inmates are no longer eligible for expedited release because of the pandemic. Additionally, despite the pandemic, several institutions still exceed 137.5% of design capacity, including High Desert State Prison (142%), Kern Valley State Prison (149%) and Valley State Prison (141%). Exceeding the court-ordered design capacity would most certainly prompt new court filings, renewed litigation, and possibly new court orders re-setting a more stringent population cap, ordering the release of inmates, or resulting in new prison construction. Additionally, the Governor proposes closing two prisons over the next two years. Creating new crimes or increasing sentences for existing crimes will delay the goals of closing prisons.

- 3) **Deterrence.** Several statistical studies conducted over the past 10 years have shown there is little connection between a threat of prosecution and incarceration and a decrease in crime. (See Steve Aos and Elizabeth Drake, Washington Institute for Public Policy, November 2013, Prison, Police and Programs: Evidence-Based Options that Reduce Crime and Save Money; National Research Council (2014), The Growth of Incarceration in the United States: Exploring Causes and Consequences Committee on Causes and Consequences of High Rates of Incarceration, J. Travis, B. Western, and S. Redburn.) In a February 2014 report, the Little Hoover Commission (LHC) determined incarceration rates did not reduce or prevent crime. There is no evidence that increasing prisons sentences for particular crimes results in any greater reflection by criminal defendants in advance of breaking the law. Rather, the LHC proposed several evidence-based options to reduce crime including addressing underlying criminogenic needs such as poverty, homeless, mental health issues and substance and alcohol abuse disorders.

- 4) **Argument in Support.** According to the Fresno County District Attorney:

To deter drivers from leaving the scene of an accident, AB 582 will increase the possible penalty for hit-and-runs resulting in permanent serious injury or death. By making this penalty more consistent with the penalties assessed for the crime of vehicular manslaughter, and making them greater than the penalty for a DUI, AB 582 will encourage drivers to stay at the scene of a crime, potentially saving the lives of innocent victims.

- 5) **Argument in Opposition.** According to California Attorneys for Criminal Justice:

AB 582 would increase the punishment for fleeing the scene of an accident, which causes permanent or serious injury, or if the accident resulted in death. Current law already imposes significant penalties for fleeing the scene of an accident. Fundamental legal principles require any sentence to be anchored in the underlying offense. Here, the bill increases the punishment for leaving the scene even if the flight is not the cause of the injury. Most of these

cases involve unintentional accidents as opposed to deliberate actions with the intent to cause injuries.

6) Prior Legislation.

- a) AB 195 (Patterson), of the 2019-2020 Legislative Session, was identical to this bill and failed passage in the Senate Committee on Public Safety.
- b) AB 582 (Rodriguez), of the 2019-2020 Legislative Session, was identical to this bill and was never referred to committee in the Senate. It was ultimately gut-and-amended into a bill related to the sale of agricultural products.

Analysis Prepared by: Kimberly Horiuchi / APPR. / (916) 319-2081