

DEPARTMENT: Board BY: Supervisor Parker PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes___ No_x_)

Discuss and consider taking action relative to the "three strikes and you're out"/sentence enhancement for repeat offenders initiative.

Information on the initiative and from Sutter County supporting this initiative is attached.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None on this matter.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

- 1) Take action to support.
- 2) Take no action.
- 3) Provide alternative direction.

COSTS: (x) Not Applicable

A. Budgeted current FY	\$	_____
B. Total anticipated costs	\$	_____
C. Required additional funding	\$	_____
D. Internal transfers	\$	_____

SOURCE: () 4/5ths Vote Required

A. Unanticipated revenues	\$	_____
B. Reserve for contingencies	\$	_____
C. Source description:		_____
Balance in Reserve for Contingencies,		_____
if approved: \$		_____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

CLERK'S USE ONLY:

Res. No.: 94-16 Ord. No. _____

Vote - Ayes: _____ Noes: _____

Absent: _____ Abstained: _____

Approved () Denied ()

(x) Minute Order Attached () No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____

ATTEST: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

Recommended

Not Recommended

For Policy Determination

Submitted with Comment

Returned for Further Action

Comment: _____

A.O. Initials: MC

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: SUPERVISOR PARKER
FROM: MARGIE WILLIAMS, CLERK OF THE BOARD *mw*
SUBJECT: "THREE STRIKES AND YOU'RE OUT"/SENTENCE
ENHANCEMENT FOR REPEAT OFFENDERS INITIATIVE

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,
ADOPTED THIS Order on January 18, 1994

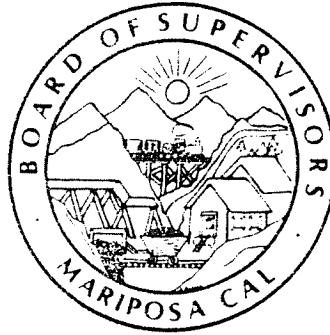
ACTION AND VOTE:

Discuss and Consider Taking Action Relative to the "Three
Strikes and You're Out"/Sentence Enhancement for Repeat
Offenders Initiative (Supervisor Parker)
BOARD ACTION: Discussion was held. Connie Salveson
provided input and requested support for the initiative.
(M)Parker, (S)Balmain, Res. 94-16 adopted supporting the
Sentence Enhancement for Repeat Offenders Initiative/Ayes:
Unanimous.

cc: File

Mariposa County Board of Supervisors

District 1 ARTHUR G. BAGGETT, JR.
District 2 DOUG BALMAIN
District 3 ERIC J. ERICKSON
District 4 GARRY R. PARKER
District 5 GERTRUDE R. TABER



MIKE COFFIELD
Administrative Officer

MARGIE WILLIAMS
Clerk of the Board

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January 28, 1994

Assemblywoman Margaret Snyder
State Capitol, Room 5144
Sacramento, CA 94249-0001

Congressman Rick Lehman
1226 Longworth House Office Bldg.
Washington, D.C. 20515

Senator Dan McCorquodale
4032 Capitol Building
Sacramento, CA 95814

Senator Dianne Feinstein
331 Hart Senate Office Building
Washington, D.C. 20510

Senator Barbara Boxer
112 Hart Senate Office Building
Washington, D.C. 20510-0505

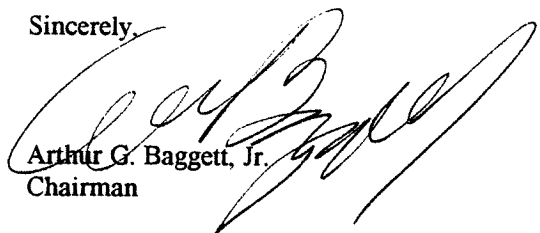
Dear Legislator:

On January 18, 1994 the Mariposa County Board of Supervisors unanimously took action supporting the Sentence Enhancement for Repeat Offenders Initiative, also known as the "Three Strikes and You're Out" initiative.

The Board is deeply concerned with the rising incidence of serious crimes, especially those committed by repeat offenders, and we strongly urge your support and active participation in securing the passage of this statute.

The safety of our citizens is of vital interest to the Mariposa County Board of Supervisors.

Sincerely,


Arthur G. Baggett, Jr.
Chairman

vk

cc: Governor Pete Wilson
California State Association of Counties
Regional Council of Rural Counties
Sutter County Board of Supervisors



BEFORE THE BOARD OF SUPERVISORS
COUNTY OF SUTTER, STATE OF CALIFORNIA

RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SUTTER IN SUPPORT OF
AN INITIATIVE MEASURE TO BE SUBMITTED
TO THE VOTERS OF THE STATE OF CALIFORNIA--
"SENTENCE ENHANCEMENT.REPEAT OFFENDERS.
INITIATIVE STATUTE"

NO. 93-166

WHEREAS, in 1992 over two million FBI Index crimes were reported to law enforcement agencies in the State of California; and

WHEREAS, these statistics indicate that, on the average: one murder occurred every two hours; one rape every 41 minutes; one robbery every four minutes; one aggravated assault every three minutes; and one property crime every 18 seconds; and

WHEREAS, according to information presented by the Sutter County Sheriff:

- o For every 100 FBI Index crimes reported to the police in California, only 2 people are sent to prison
- o The average time served by a person sent to prison in California is currently 21 months, or 41%, of the average sentence given in court
- o The average time served by a person sent to prison for all violent crimes is less than 3 years in California
- o 58% of the criminals released from California's prisons commit another crime within two years of their release
- o 30% of all admissions to California prisons in 1992 were parole violators
- o California ranks 35th among the states in prison population relative to serious crime and 43rd if the prison population is compared to violent crime; and

WHEREAS, a Rand Corporation study of 2,190 career criminals found that the average repeat offender commits 187 to 287 crimes each year, costing society an average of \$430,000 per criminal while the average cost of incarcerating a criminal for a one-year period is approximately \$21,000; and

WHEREAS, an initiative entitled "Sentence Enhancement.Repeat Offenders.Initiative Statute" (commonly referred to as "Three Strikes and You're Out") which will significantly increase sentences for repeat offenders who commit serious or violent felonies has been filed with the Secretary of State.

NOW, THEREFORE, BE IT RESOLVED THAT the Sutter County Board of Supervisors find and declare that: (1) a major problem exists within the State of California with respect to serious and violent crime; (2) a significant portion of this crime is caused by career criminals; (3) these career criminals are being inadequately punished under current law; and (4) it is therefore essential, to ensure the safety of the citizens of the State of California, that stricter sentencing laws be enacted for those who repeatedly commit serious or violent felonies.

BE IT FURTHER RESOLVED THAT the Sutter County Board of Supervisors therefore endorses and supports the "Three Strikes and You're Out" initiative, and encourages all other County Board of Supervisors to lend their support to the initiative.

PASSED AND ADOPTED by the Board of Supervisors of the County of Sutter, State of California, this 21st day of December, 1993, by the following vote:

AYES: SUPERVISORS LICARI, BENATAR, KROON, BECHTEL, AKIN

NOES: NONE

ABSENT: NONE

Peter Licari

CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

LONNA B. SMITH
COUNTY CLERK

BY: *Pamela Fiskus*
Deputy



INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purposes and points of the proposed measure:

SENTENCE ENHANCEMENT. REPEAT OFFENDERS. INITIATIVE STATUTE.

Provides increased sentences for convicted felons who have previously been convicted of violent or serious felonies such as murder, mayhem or rape. Convicted felons with one prior conviction would receive twice the normal sentence for the new offense. Convicted felons with two or more prior convictions would receive three times the normal sentence for the new offense or 25 years to life, whichever is greater. Includes as prior convictions certain felonies committed by juveniles over 16 years of age. Reduces sentence reduction credit which may be earned by these convicted felons. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Annual and one time costs to the state of several billions of dollars would be incurred as a result of additional and longer state prison commitments; some savings to local government in an unknown amount would result from the shifting of sentenced offenders from local to state responsibility and fewer prosecutions of repeat offenders.

To the Honorable Secretary of State of California:

We, the undersigned, registered, qualified voters of California, residents of _____ County or City and County, hereby propose amendments to the Penal Code, relating to prison sentences for those who commit a felony and have been previously convicted of serious and/or violent felony offenses, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to the general election or otherwise provided by law. The proposed statutory amendments read as follows:

It is the intent of the People of the State of California in enacting this measure to ensure longer prison sentences and greater punishment for those who commit a felony and have been previously convicted of serious and/or violent felony offenses.

SECTION 1. Section 1170.12 is added to the Penal Code, to read:

1170.12 (a) Notwithstanding any other law, if a defendant has been convicted of a felony and it has been pled and proved that the defendant has one or more prior felony convictions as defined in [proposed] California Penal Code Section 1170.12 (b), the court shall adhere to each of the following:

- (1) There shall not be an aggregate term limitation for purposes of consecutive sentencing for any subsequent felony conviction.
 - (2) Probation for the current offense shall not be granted, nor shall execution or imposition of the sentence be suspended for any prior offense.
 - (3) The length of time between the prior felony conviction and the current felony conviction shall not affect the imposition of sentence.
 - (4) There shall not be a commitment to any other facility other than State Prison. Diversion shall not be granted nor shall the defendant be eligible for commitment to the California Rehabilitation Center as provided in Article 2 (commencing with Section 3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code.
 - (5) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not exceed one-fifth (1/5) of the total term of imprisonment imposed and shall not accrue until the defendant is physically placed in the State Prison.
 - (6) If there is a current conviction for more than one (1) felony count not committed on the same occasion, and not arising from the same set of operative facts, the court shall sentence the defendant consecutively on each count pursuant to this section.
 - (7) If there is a current conviction for more than one serious or violent felony as described in 1170.12(a)(6), the court shall impose the sentence for each conviction consecutive to the sentence for any other conviction for which the defendant may be consecutively sentenced in the manner prescribed by law.
 - (8) Any sentence imposed pursuant to this section will be imposed consecutive to any other sentence which the defendant is already serving, unless otherwise provided by law.
- (b) Notwithstanding any other provision of law and for the purposes of this section, a prior conviction of a felony shall be defined as:
- (1) Any offense defined in California Penal Code Section 667.5(c) as a violent felony or any offense defined in California Penal Code Section 1192.7(c) as a serious felony in this state. The determination of whether a prior conviction is a prior felony conviction for purposes of this section shall be made upon the date of that prior conviction and is not affected by the sentence imposed unless the sentence automatically, upon the initial sentencing, converts the felony to a misdemeanor. None of the following dispositions shall affect the determination that a prior conviction is a prior felony for purposes of this section:
 - (A) The suspension of imposition of judgment or sentence.
 - (B) The stay of execution of sentence.
 - (C) The commitment to the State Department of Health Services as a mentally disordered sex offender following a conviction of a felony.
 - (D) The commitment to the California Rehabilitation Center or any other facility whose function is rehabilitative diversion from State Prison.
 - (2) A conviction in another jurisdiction for an offense that, if committed in California, is punishable by imprisonment in State Prison. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense that includes all of the elements of the particular felony as defined in California Penal Code Section 667.5(c) or California Penal Code Section 1192.7(c).
 - (3) A prior juvenile adjudication shall constitute a prior felony conviction for purposes of sentence enhancement if:
 - (A) The juvenile was sixteen (16) years of age or older at the time he or she committed the prior offense, and
 - (B) The prior offense is
 - (i) listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, or
 - (ii) listed in Section 1170.12(b) as a felony, and
 - (C) The juvenile was found to be a fit and proper subject to be dealt with under juvenile court law, and
 - (D) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code.
- (c) For purposes of this section, and in addition to any other enhancements or punishment provisions which may apply, the following shall apply where a defendant has a prior felony conviction:
- (1) If a defendant has one prior felony conviction that has been pled and proved, the determinate term or minimum term for an indeterminate term shall be twice the term otherwise provided as punishment for the current felony conviction.
 - (2) (A) If a defendant has two (2) or more prior felony convictions as defined in Penal Code Section 1170.12(b)(1) that have been pled and proved, the term for the current felony conviction shall be an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the greater of
 - (i) three (3) times the term otherwise provided as punishment for each current felony conviction subsequent to the two or more prior felony convictions, or
 - (ii) twenty-five (25) years, or
 - (iii) the term determined by the court pursuant to California Penal Code Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with California Penal Code Section 1170) of Title 7 of Part 2, or any period prescribed by California Penal Code Section 190 or 3046.(B) The indeterminate term described in Penal Code Section 1170.12(c)(2)(A) shall be served consecutive to any other term of imprisonment for which a consecutive term may be imposed by law. Any other term imposed subsequent to any indeterminate term described in Penal Code 1170.12(c)(2)(A) shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.
- (d) (1) Notwithstanding any other law, this section shall be applied in every case in which a defendant has a prior felony conviction as defined in this statute. The prosecuting attorney shall plead and prove each prior felony conviction except as provided in paragraph (2).
- (2) The prosecuting attorney may move to dismiss or strike a prior felony conviction allegation in the furtherance of justice pursuant to California Penal Code Section 1385, or if there is insufficient evidence to prove the prior conviction. If upon the satisfaction of the court that there is insufficient evidence to prove the prior felony conviction, the court may dismiss or strike the allegation.
- (e) Prior felony convictions shall not be used in plea bargaining as defined in California Penal Code Section 1192.7(b). The prosecution shall plead and prove all known prior felony convictions and shall not enter into any agreement to strike or seek the dismissal of any prior felony conviction allegation except as provided in Section 1170.12(d)(2).

SECTION 2. All references to existing statutes are to statutes as they existed on June 30, 1993.

SECTION 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4. The provisions of this measure shall not be amended by the Legislature except by statute passed in each house by roll call vote entered in the journal, two-thirds (2/3) of the membership concurring, or by a statute that becomes effective only when approved by the electors.