

Case No.: S238309

SUPREME COURT  
LODGED EXHIBITS

DEC 19 2016

**IN THE SUPREME COURT  
OF THE STATE OF CALIFORNIA**

Deputy

**Ron Briggs and John Van de Kamp,**

Petitioners,

v.

**Jerry Brown, in his official capacity as the Governor of California; Kamala Harris, in her official capacity as the Attorney General of California; California's Judicial Council; and Does I through XX**

Respondents.

**PETITIONERS' APPENDIX OF EXHIBITS IN SUPPORT OF AMENDED AND  
RENEWED PETITION FOR WRIT OF MANDATE AND REQUEST FOR  
IMMEDIATE STAY OR INJUNCTIVE RELIEF**

**VOLUME 1 OF 1  
(PAGE NOS. 1-31)**

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## Petitioner's Appendix of Exhibits

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<b>Tab</b>	<b>Date</b>	<b>Document</b>	<b>Pages</b>
1	8/15/2016	Text of Proposition 66	1-7
2	8/15/2016	Proposition 66 Official Title and Summary; Analysis by the Legislative Analyst	8-11
3	10/16/2015	Submission of Initiative 15-0096	12-28
4	12/16/2016	Secretary of State Certification of Election Results for Proposition 66 (excerpt from Statement of Vote)	29-31

# Exhibit 1

expenses. Grant recipients shall use no more than 5 percent of any moneys received for administrative expenses.

(e) Prior to disbursing any grants pursuant to this chapter, the Wildlife Conservation Board shall develop project solicitation and evaluation guidelines. The guidelines may include a limitation on the dollar amounts of grants to be awarded. Prior to finalizing the guidelines, the Wildlife Conservation Board shall post the draft guidelines on its Internet Web site and conduct three public hearings to consider public comments. One public hearing shall be held in Northern California, one hearing shall be held in the Central Valley, and one hearing shall be held in Southern California.

(f) (1) The nonpartisan California State Auditor shall conduct a biennial independent financial audit of the programs receiving funds pursuant to this chapter. The California State Auditor shall report its findings to the Governor and both houses of the Legislature, and shall make the findings available to the public on its Internet Web site.

(2) (A) The California State Auditor shall be reimbursed from moneys in the Environmental Protection and Enhancement Fund for actual costs incurred in conducting the biennial audits required by this subdivision, in an amount not to exceed four hundred thousand dollars (\$400,000) per audit.

(B) The four hundred thousand dollar (\$400,000) per audit maximum limit shall be adjusted biennially to reflect any increase or decrease in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U). The Treasurer's office shall calculate and publish the adjustments required by this paragraph.

42273. (a) Notwithstanding any other law, local governments may require moneys generated or collected pursuant to any local law that bans free distribution of any type of carryout bag, and mandates the sale of any other type of carryout bag, to be deposited into the Environmental Protection and Enhancement Fund and used for the purposes set forth in Section 42272.

(b) For purposes of this section, "local law" means any ordinance, resolution, law, regulation, or other legal authority adopted, enacted, or implemented by any city, county, city and county, charter city, charter county, special district, school district, community college, or other local or regional governmental entity.

SEC. 5. Liberal Construction.

This act shall be liberally construed in order to effectuate its purposes.

SEC. 6. Conflicting Measures.

(a) In the event that this measure and another measure or measures relating to the use of moneys generated or collected by stores pursuant to laws that ban free distribution, and mandates the sale, of any or all types of carryout bags shall appear on the same statewide election ballot, the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

(b) If this measure is approved by the voters but superseded in whole or in part by any other conflicting initiative approved by the voters at the same election, and such

conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

SEC. 7. Severability.

The provisions of this act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this act. The people of the State of California hereby declare that they would have adopted this act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this act or application thereof would be subsequently declared invalid.

SEC. 8. Legal Defense.

If this act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of federal law, and both the Governor and Attorney General refuse to defend this act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 (commencing with Section 12500) of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this act. The written affirmation shall be made publicly available upon request.

(c) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this act on behalf of the State of California.

**PROPOSITION 66**

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the Government Code and the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout~~ type and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

**PROPOSED LAW**

SECTION 1. Short Title.

This Act shall be known and may be cited as the Death Penalty Reform and Savings Act of 2016.

SEC. 2. Findings and Declarations.

1. California's death penalty system is ineffective because of waste, delays, and inefficiencies. Fixing it will save California taxpayers millions of dollars every year. These wasted taxpayer dollars would be better used for crime prevention, education, and services for the elderly and disabled.

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2. Murder victims and their families are entitled to justice and due process. Death row killers have murdered over 1,000 victims, including 229 children and 43 police officers; 235 victims were raped and 90 victims were tortured.

3. Families of murder victims should not have to wait decades for justice. These delays further victimize the families who are waiting for justice. For example, serial killer Robert Rhoades, who kidnapped, raped, tortured, and murdered 8-year-old Michael Lyons and also raped and murdered Bay Area high school student Julie Connell, has been sitting on death row for over 16 years. Hundreds of killers have sat on death row for over 20 years.

4. In 2012, the Legislative Analyst's Office found that eliminating special housing for death row killers will save tens of millions of dollars every year. These savings could be invested in our schools, law enforcement, and communities to keep us safer.

5. Death row killers should be required to work in prison and pay restitution to their victims' families consistent with the Victims' Bill of Rights (Marsy's Law). Refusal to work and pay restitution should result in loss of special privileges.

6. Reforming the existing inefficient appeals process for death penalty cases will ensure fairness for both defendants and victims. Right now, capital defendants wait five years or more for appointment of their appellate lawyer. By providing prompt appointment of attorneys, the defendants' claims will be heard sooner.

7. A defendant's claim of actual innocence should not be limited, but frivolous and unnecessary claims should be restricted. These tactics have wasted taxpayer dollars and delayed justice for decades.

8. The state agency that is supposed to expedite secondary review of death penalty cases is operating without any effective oversight, causing long-term delays and wasting taxpayer dollars. California Supreme Court oversight of this state agency will ensure accountability.

9. Bureaucratic regulations have needlessly delayed enforcement of death penalty verdicts. Eliminating wasteful spending on repetitive challenges to these regulations will result in the fair and effective implementation of justice.

10. The California Constitution gives crime victims the right to timely justice. A capital case can be fully and fairly reviewed by both the state and federal courts within ten years. By adopting state rules and procedures, victims will receive timely justice and taxpayers will save hundreds of millions of dollars.

11. California's Death Row includes serial killers, cop killers, child killers, mass murderers, and hate crime killers. The death penalty system is broken, but it can and should be fixed. This initiative will ensure justice for both victims and defendants, and will save hundreds of millions of taxpayer dollars.

SEC. 3. Section 190.6 of the Penal Code is amended to read:

190.6. (a) The Legislature finds that the sentence in all capital cases should be imposed expeditiously.

(b) Therefore, in all cases in which a sentence of death has been imposed on or after January 1, 1997, the opening appellate brief in the appeal to the State Supreme Court shall be filed no later than seven months after the

certification of the record for completeness under subdivision (d) of Section 190.8 or receipt by the appellant's counsel of the completed record, whichever is later, except for good cause. However, in those cases where the trial transcript exceeds 10,000 pages, the briefing shall be completed within the time limits and pursuant to the procedures set by the rules of court adopted by the Judicial Council.

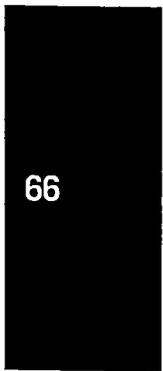
(c) In all cases in which a sentence of death has been imposed on or after January 1, 1997, it is the Legislature's goal that the appeal be decided and an opinion reaching the merits be filed within 210 days of the completion of the briefing. However, where the appeal and a petition for writ of habeas corpus is heard at the same time, the petition should be decided and an opinion reaching the merits should be filed within 210 days of the completion of the briefing for the petition.

(d) *The right of victims of crime to a prompt and final conclusion, as provided in paragraph (9) of subdivision (b) of Section 28 of Article I of the California Constitution, includes the right to have judgments of death carried out within a reasonable time. Within 18 months of the effective date of this initiative, the Judicial Council shall adopt initial rules and standards of administration designed to expedite the processing of capital appeals and state habeas corpus review. Within five years of the adoption of the initial rules or the entry of judgment, whichever is later, the state courts shall complete the state appeal and the initial state habeas corpus review in capital cases. The Judicial Council shall continuously monitor the timeliness of review of capital cases and shall amend the rules and standards as necessary to complete the state appeal and initial state habeas corpus proceedings within the five-year period provided in this subdivision.*

~~(d) (e) The failure of the parties or the Supreme Court to meet or comply with the time limit provided by this section shall not be a ground for granting relief from a judgment of conviction or sentence of death of a court to comply with the time limit in subdivision (b) shall not affect the validity of the judgment or require dismissal of an appeal or habeas corpus petition. If a court fails to comply without extraordinary and compelling reasons justifying the delay, either party or any victim of the offense may seek relief by petition for writ of mandate. The court in which the petition is filed shall act on it within 60 days of filing. Paragraph (1) of subdivision (c) of Section 28 of Article I of the California Constitution, regarding standing to enforce victims' rights, applies to this subdivision and subdivision (d).~~

SEC. 4. Section 1227 of the Penal Code is amended to read:

1227. (a) If for any reason other than the pendency of an appeal pursuant to subdivision (b) of Section 1239 of this code a judgment of death has not been executed, and it remains in force, the court in which the conviction was had shall, on application of the district attorney, or may upon its own motion, make and cause to be entered an order ~~appointing a day upon specifying a period of 10 days during which the judgment shall be executed, which must not be less than 30 days nor more than 60 days from the time of making such order, and immediately thereafter.~~ *The 10-day period shall begin no less than 30 days after the order is entered and shall end no more than 60 days after the order is entered. Immediately after the order is entered, a certified copy of such the order, attested by the clerk, under the seal of the court, shall, for the purpose of execution, be transmitted by registered mail to the warden*



of the state prison having the custody of the defendant; provided, that if the defendant be at large, a warrant for his apprehension may be issued, and upon being apprehended, he shall be brought before the court, whereupon the court shall make an order directing the warden of the state prison to whom the sheriff is instructed to deliver the defendant to execute the judgment at a specified time within a period of 10 days, which shall not be begin less than 30 days nor end more than 60 days from the time of making such order.

(b) From an order fixing the time for and directing the execution of such judgment as herein provided, there shall be no appeal.

SEC. 5. Section 1239.1 is added to the Penal Code, to read:

1239.1. (a) It is the duty of the Supreme Court in a capital case to expedite the review of the case. The court shall appoint counsel for an indigent appellant as soon as possible. The court shall only grant extensions of time for briefing for compelling or extraordinary reasons.

(b) When necessary to remove a substantial backlog in appointment of counsel for capital cases, the Supreme Court shall require attorneys who are qualified for appointment to the most serious non-capital appeals and who meet the qualifications for capital appeals to accept appointment in capital cases as a condition for remaining on the court's appointment list. A "substantial backlog" exists for this purpose when the time from entry of judgment in the trial court to appointment of counsel for appeal exceeds 6 months over a period of 12 consecutive months.

SEC. 6. Section 1509 is added to the Penal Code, to read:

1509. (a) This section applies to any petition for writ of habeas corpus filed by a person in custody pursuant to a judgment of death. A writ of habeas corpus pursuant to this section is the exclusive procedure for collateral attack on a judgment of death. A petition filed in any court other than the court which imposed the sentence should be promptly transferred to that court unless good cause is shown for the petition to be heard by another court. A petition filed in or transferred to the court which imposed the sentence shall be assigned to the original trial judge unless that judge is unavailable or there is other good cause to assign the case to a different judge.

(b) After the entry of a judgment of death in the trial court, that court shall offer counsel to the prisoner as provided in Section 68662 of the Government Code.

(c) Except as provided in subdivisions (d) and (g), the initial petition must be filed within one year of the order entered under Section 68662 of the Government Code.

(d) An initial petition which is untimely under subdivision (c) or a successive petition whenever filed shall be dismissed unless the court finds, by the preponderance of all available evidence, whether or not admissible at trial, that the defendant is actually innocent of the crime of which he or she was convicted or is ineligible for the sentence. A stay of execution shall not be granted for the purpose of considering a successive or untimely petition unless the court finds that the petitioner has a substantial claim of actual innocence or ineligibility. "Ineligible for the sentence of death" means that circumstances exist placing that sentence outside the range of the sentencer's discretion. Claims of ineligibility include a claim that none of the special circumstances in subdivision (a) of

Section 190.2 is true, a claim that the defendant was under the age of 18 at the time of the crime, or a claim that the defendant has an intellectual disability, as defined in Section 1376. A claim relating to the sentencing decision under Section 190.3 is not a claim of actual innocence or ineligibility for the purpose of this section.

(e) A petitioner claiming innocence or ineligibility under subdivision (d) shall disclose all material information relating to guilt or eligibility in the possession of the petitioner or present or former counsel for petitioner. If the petitioner willfully fails to make the disclosure required by this subdivision and authorize disclosure by counsel, the petition may be dismissed.

(f) Proceedings under this section shall be conducted as expeditiously as possible, consistent with a fair adjudication. The superior court shall resolve the initial petition within one year of filing unless the court finds that a delay is necessary to resolve a substantial claim of actual innocence, but in no instance shall the court take longer than two years to resolve the petition. On decision of an initial petition, the court shall issue a statement of decision explaining the factual and legal basis for its decision.

(g) If a habeas corpus petition is pending on the effective date of this section, the court may transfer the petition to the court which imposed the sentence. In a case where a judgment of death was imposed prior to the effective date of this section, but no habeas corpus petition has been filed prior to the effective date of this section, a petition that would otherwise be barred by subdivision (c) may be filed within one year of the effective date of this section or within the time allowed under prior law, whichever is earlier.

SEC. 7. Section 1509.1 is added to the Penal Code, to read:

1509.1. (a) Either party may appeal the decision of a superior court on an initial petition under Section 1509 to the court of appeal. An appeal shall be taken by filing a notice of appeal in the superior court within 30 days of the court's decision granting or denying the habeas petition. A successive petition shall not be used as a means of reviewing a denial of habeas relief.

(b) The issues considered on an appeal under subdivision (a) shall be limited to the claims raised in the superior court, except that the court of appeal may also consider a claim of ineffective assistance of trial counsel if the failure of habeas counsel to present that claim to the superior court constituted ineffective assistance. The court of appeal may, if additional findings of fact are required, make a limited remand to the superior court to consider the claim.

(c) The people may appeal the decision of the superior court granting relief on a successive petition. The petitioner may appeal the decision of the superior court denying relief on a successive petition only if the superior court or the court of appeal grants a certificate of appealability. A certificate of appealability may issue under this subdivision only if the petitioner has shown both a substantial claim for relief, which shall be indicated in the certificate, and a substantial claim that the requirements of subdivision (d) of Section 1509 have been met. An appeal under this subdivision shall be taken by filing a notice of appeal in the superior court within 30 days of the court's decision. The superior court shall grant or deny a certificate of appealability concurrently with a decision denying relief on the petition. The court of appeal shall grant or deny a

request for a certificate of appealability within 10 days of an application for a certificate. The jurisdiction of the court of appeal is limited to the claims identified in the certificate and any additional claims added by the court of appeal within 60 days of the notice of appeal. An appeal under this subdivision shall have priority over all other matters and be decided as expeditiously as possible.

SEC. 8. Section 2700.1 is added to the Penal Code to read:

2700.1. Section 2700 applies to inmates sentenced to death, except as otherwise provided in this section.

Every person found guilty of murder, sentenced to death, and held by the Department of Corrections and Rehabilitation pursuant to Sections 3600 to 3602 shall be required to work as many hours of faithful labor each day he or she is so held as shall be prescribed the rules and regulations of the department.

Physical education and physical fitness programs shall not qualify as work for purposes of this section. The Department of Corrections and Rehabilitation may revoke the privileges of any condemned inmate who refuses to work as required by this section.

In any case where the condemned inmate owes a restitution fine or restitution order, the Secretary of the Department of Corrections and Rehabilitation shall deduct 70 percent or the balance owing, whichever is less, from the condemned inmate's wages and trust account deposits, regardless of the source of the income, and shall transfer those funds to the California Victim Compensation and Government Claims Board according to the rules and regulations of the Department of Corrections and Rehabilitation, pursuant to Sections 2085.5 and 2717.8.

SEC. 9. Section 3600 of the Penal Code is amended to read:

3600. (a) Every male person, upon whom has been imposed the judgment of death, shall be delivered to the warden of the California state prison designated by the department for the execution of the death penalty, there to be kept until the execution of the judgment, except as provided in subdivision (b). The inmate shall be kept in a California prison until execution of the judgment. The department may transfer the inmate to another prison which it determines to provide a level of security sufficient for that inmate. The inmate shall be returned to the prison designated for execution of the death penalty after an execution date has been set.

(b) Notwithstanding any other provision of law:

(1) A condemned inmate who, while in prison, commits any of the following offenses, or who, as a member of a gang or disruptive group, orders others to commit any of these offenses, may, following disciplinary sanctions and classification actions at San Quentin State Prison, pursuant to regulations established by the Department of Corrections, be housed in secure condemned housing designated by the Director of Corrections, at the California State Prison, Sacramento:

(A) Homicide.

(B) Assault with a weapon or with physical force capable of causing serious or mortal injury.

(C) Escape with force or attempted escape with force.

(D) Repeated serious rules violations that substantially threaten safety or security.

(2) The condemned housing program at California State Prison, Sacramento, shall be fully operational prior to the transfer of any condemned inmate.

(3) Specialized training protocols for supervising condemned inmates shall be provided to those line staff and supervisors at the California State Prison, Sacramento, who supervise condemned inmates on a regular basis.

(4) An inmate whose medical or mental health needs are so critical as to endanger the inmate or others may, pursuant to regulations established by the Department of Corrections, be housed at the California Medical Facility or other appropriate institution for medical or mental health treatment. The inmate shall be returned to the institution from which the inmate was transferred when the condition has been adequately treated or is in remission.

(c) When housed pursuant to subdivision (b) the following shall apply:

(1) Those local procedures relating to privileges and classification procedures provided to Grade B condemned inmates at San Quentin State Prison, Sacramento, for condemned inmates housed pursuant to paragraph (1) of subdivision (b) of Section 3600. Those classification procedures shall include the right to the review of a classification no less than every 90 days and the opportunity to petition for a return to San Quentin State Prison.

(2) Similar attorney-client access procedures that are afforded to condemned inmates housed at San Quentin State Prison shall be afforded to condemned inmates housed in secure condemned housing designated by the Director of Corrections, at the California State Prison, Sacramento. Attorney-client access for condemned inmates housed at an institution for medical or mental health treatment shall be commensurate with the institution's visiting procedures and appropriate treatment protocols.

(3) A condemned inmate housed in secure condemned housing pursuant to subdivision (b) shall be returned to San Quentin State Prison at least 60 days prior to his scheduled date of execution.

(4) No more than 15 condemned inmates may be rehoused pursuant to paragraph (1) of subdivision (b).

(d) Prior to any relocation of condemned row from San Quentin State Prison, whether proposed through legislation or any other means, all maximum security Level IV, 180-degree housing unit facilities with an electrified perimeter shall be evaluated by the Department of Corrections for suitability for the secure housing and execution of condemned inmates.

SEC. 10. Section 3604 of the Penal Code is amended to read:

3604. (a) The punishment of death shall be inflicted by the administration of a lethal gas or by an intravenous injection of a substance or substances in a lethal quantity sufficient to cause death, by standards established under the direction of the Department of Corrections and Rehabilitation.

(b) Persons sentenced to death prior to or after the operative date of this subdivision shall have the opportunity to elect to have the punishment imposed by lethal gas or lethal injection. This choice shall be made in writing and shall be submitted to the warden pursuant to regulations established by the Department of Corrections and Rehabilitation. If a person under sentence of death does

not choose either lethal gas or lethal injection within 10 days after the warden's service upon the inmate of an execution warrant issued following the operative date of this subdivision, the penalty of death shall be imposed by lethal injection.

(c) Where the person sentenced to death is not executed on the date set for execution and a new execution date is subsequently set, the inmate again shall have the opportunity to elect to have punishment imposed by lethal gas or lethal injection, according to the procedures set forth in subdivision (b).

(d) Notwithstanding subdivision (b), if either manner of execution described in subdivision (a) is held invalid, the punishment of death shall be imposed by the alternative means specified in subdivision (a).

(e) *The Department of Corrections and Rehabilitation, or any successor agency with the duty to execute judgments of death, shall maintain at all times the ability to execute such judgments.*

SEC. 11. Section 3604.1 is added to the Penal Code, to read:

*3604.1. (a) The Administrative Procedure Act shall not apply to standards, procedures, or regulations promulgated pursuant to Section 3604. The department shall make the standards adopted under subdivision (a) of that section available to the public and to inmates sentenced to death. The department shall promptly notify the Attorney General, the State Public Defender, and counsel for any inmate for whom an execution date has been set or for whom a motion to set an execution date is pending of any adoption or amendment of the standards. Noncompliance with this subdivision is not a ground for stay of an execution or an injunction against carrying out an execution unless the noncompliance has actually prejudiced the inmate's ability to challenge the standard, and in that event the stay shall be limited to a maximum of 10 days.*

*(b) Notwithstanding subdivision (a) of Section 3604, an execution by lethal injection may be carried out by means of an injection other than intravenous if the warden determines that the condition of the inmate makes intravenous injection impractical.*

*(c) The court which rendered the judgment of death has exclusive jurisdiction to hear any claim by the condemned inmate that the method of execution is unconstitutional or otherwise invalid. Such a claim shall be dismissed if the court finds its presentation was delayed without good cause. If the method is found invalid, the court shall order the use of a valid method of execution. If the use of a method of execution is enjoined by a federal court, the Department of Corrections and Rehabilitation shall adopt, within 90 days, a method that conforms to federal requirements as found by that court. If the department fails to perform any duty needed to enable it to execute the judgment, the court which rendered the judgment of death shall order it to perform that duty on its own motion, on motion of the District Attorney or Attorney General, or on motion of any victim of the crime as defined in subdivision (e) of Section 28 of Article I of the California Constitution.*

SEC. 12. Section 3604.3 is added to the Penal Code, to read:

*3604.3. (a) A physician may attend an execution for the purpose of pronouncing death and may provide advice to the department for the purpose of developing an execution protocol to minimize the risk of pain to the inmate.*

*(b) The purchase of drugs, medical supplies or medical equipment necessary to carry out an execution shall not be subject to the provisions of Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code, and any pharmacist, or supplier, compounder, or manufacturer of pharmaceuticals is authorized to dispense drugs and supplies to the secretary or the secretary's designee, without prescription, for carrying out the provisions of this chapter.*

*(c) No licensing board, department, commission, or accreditation agency that oversees or regulates the practice of health care or certifies or licenses health care professionals may deny or revoke a license or certification, censure, reprimand, suspend, or take any other disciplinary action against any licensed health care professional for any action authorized by this section.*

SEC. 13. Section 68660.5 is added to the Government Code, to read:

*68660.5. The purposes of this chapter are to qualify the State of California for the handling of federal habeas corpus petitions under Chapter 154 of Title 28 of the United States Code, to expedite the completion of state habeas corpus proceedings in capital cases, and to provide quality representation in state habeas corpus for inmates sentenced to death. This chapter shall be construed and administered consistently with those purposes.*

SEC. 14. Section 68661 of the Government Code is amended to read:

68661. There is hereby created in the judicial branch of state government the California Habeas Corpus Resource Center, which shall have all of the following general powers and duties:

(a) To employ up to 34 attorneys who may be appointed by the Supreme Court pursuant to Section 68662 to represent any person convicted and sentenced to death in this state who is without counsel, and who is determined by a court of competent jurisdiction to be indigent, for the purpose of instituting and prosecuting ~~postconviction~~ actions *habeas corpus petitions* in the state and federal courts, challenging the legality of the judgment or sentence imposed against that person, *subject to the limitations in Section 68661.1*, and preparing petitions for executive clemency. ~~Any~~ *Any* such appointment may be concurrent with the appointment of the State Public Defender or other counsel for purposes of direct appeal under Section 11 of Article VI of the California Constitution.

(b) To seek reimbursement for representation and expenses pursuant to Section 3006A of Title 18 of the United States Code when providing representation to indigent persons in the federal courts and process those payments via the Federal Trust Fund.

(c) To work with the ~~Supreme Court~~ courts in recruiting members of the private bar to accept death penalty habeas corpus case appointments.

(d) To ~~establish and periodically update~~ *recommend* attorneys to the Supreme Court for inclusion in a roster of attorneys qualified as counsel in ~~postconviction~~ *habeas corpus* proceedings in capital cases, *provided that the final determination of whether to include an attorney in the roster shall be made by the Supreme Court and not delegated to the center.*

(e) To establish and periodically update a roster of experienced investigators and experts who are qualified to

assist counsel in ~~postconviction~~ *habeas corpus* proceedings in capital cases.

(f) To employ investigators and experts as staff to provide services to appointed counsel upon request of counsel, provided that when the provision of those services is to private counsel ~~under appointment by the Supreme Court~~, those services shall be pursuant to contract between appointed counsel and the center.

(g) To provide legal or other advice ~~or, to the extent not otherwise available, any other assistance~~ to appointed counsel in ~~postconviction~~ *habeas corpus* proceedings as is appropriate when not prohibited by law.

(h) To develop a brief bank of pleadings and related materials on significant, recurring issues that arise in ~~postconviction~~ *habeas corpus* proceedings in capital cases and to make those briefs available to appointed counsel.

(i) To evaluate cases and recommend assignment by the court of appropriate attorneys.

(j) To provide assistance and case progress monitoring as needed.

(k) To timely review case billings and recommend compensation of members of the private bar to the court.

(l) The center shall report annually to *the people*, the Legislature, the Governor, and the Supreme Court on the status of the appointment of counsel for indigent persons in ~~postconviction~~ *habeas corpus* capital cases, and on the operations of the center. ~~On or before January 1, 2000, the Legislative Analyst's Office shall evaluate the available reports. The report shall list all cases in which the center is providing representation. For each case that has been pending more than one year in any court, the report shall state the reason for the delay and the actions the center is taking to bring the case to completion.~~

SEC. 15. Section 68661.1 is added to the Government Code, to read:

*68661.1. (a) The center may represent a person sentenced to death on a federal habeas corpus petition if and only if (1) the center was appointed to represent that person on state habeas corpus, (2) the center is appointed for that purpose by the federal court, and (3) the executive director determines that compensation from the federal court will fully cover the cost of representation. Neither the center nor any other person or entity receiving state funds shall spend state funds to attack in federal court any judgment of a California court in a capital case, other than review in the Supreme Court pursuant to Section 1257 of Title 28 of the United States Code.*

*(b) The center is not authorized to represent any person in any action other than habeas corpus which constitutes a collateral attack on the judgment or seeks to delay or prevent its execution. The center shall not engage in any other litigation or expend funds in any form of advocacy other than as expressly authorized by this section or Section 68661.*

SEC. 16. Section 68662 of the Government Code is amended to read:

68662. The ~~Supreme Court superior court that imposed the sentence~~ shall offer to appoint counsel to represent ~~a state prisoners prisoner~~ subject to a capital sentence for purposes of state postconviction proceedings, and shall enter an order containing one of the following:

(a) The appointment of one or more counsel to represent the prisoner in ~~postconviction state~~ proceedings *pursuant*

*to Section 1509 of the Penal Code* upon a finding that the person is indigent and has accepted the offer to appoint counsel or is unable to competently decide whether to accept or reject that offer.

(b) A finding, after a hearing if necessary, that the prisoner rejected the offer to appoint counsel and made that decision with full understanding of the legal consequences of the decision.

(c) The denial to appoint counsel upon a finding that the person is not indigent.

SEC. 17. Section 68664 of the Government Code is amended to read:

68664. (a) The center shall be managed by an executive director who shall be responsible for the day-to-day operations of the center.

(b) The executive director shall be chosen by ~~a five-member board of directors and confirmed by the Senate. Each Appellate Project shall appoint one board member, all of whom shall be attorneys. However, no attorney who is employed as a judge, prosecutor, or in a law enforcement capacity shall be eligible to serve on the board the Supreme Court.~~ The executive director shall serve at the will of the ~~board~~ *Supreme Court*.

(c) Each member of the board shall be appointed to serve a four-year term, and vacancies shall be filled in the same manner as the original appointment. Members of the board shall receive no compensation, but shall be reimbursed for all reasonable and necessary expenses incidental to their duties. The first members of the board shall be appointed no later than February 1, 1998. ~~The executive director shall ensure that all matters in which the center provides representation are completed as expeditiously as possible consistent with effective representation.~~

(d) The executive director shall meet the appointment qualifications of the State Public Defender as specified in Section 15400.

(e) The executive director shall receive the salary that shall be specified for the ~~executive director State Public Defender~~ in Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2. ~~All other attorneys employed by the center shall be compensated at the same level as comparable positions in the Office of the State Public Defender.~~

SEC. 18. Section 68665 of the Government Code is amended to read:

68665. (a) The Judicial Council and the Supreme Court shall adopt, by rule of court, binding and mandatory competency standards for the appointment of counsel in death penalty direct appeals and habeas corpus proceedings, ~~and they shall reevaluate the standards as needed to ensure that they meet the criteria in subdivision (b).~~

*(b) In establishing and reevaluating the standards, the Judicial Council and the Supreme Court shall consider the qualifications needed to achieve competent representation, the need to avoid unduly restricting the available pool of attorneys so as to provide timely appointment, and the standards needed to qualify for Chapter 154 of Title 28 of the United States Code. Experience requirements shall not be limited to defense experience.*

SEC. 19. Effective Date. Except as more specifically provided in this act, all sections of this act take effect

immediately upon enactment and apply to all proceedings conducted on or after the effective date.

SEC. 20. Amendments. The statutory provisions of this act shall not be amended by the Legislature, except by a statute passed in each house by rollcall vote entered in the journal, three-fourths of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters.

SEC. 21. Severability/Conflicting Measures/Standing.

If any provision of this act, or any part of any provision, or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remaining provisions and applications which can be given effect without the invalid or unconstitutional provision or application shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

This measure is intended to be comprehensive. It is the intent of the people that in the event this measure or measures relating to the subject of capital punishment shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

The people of the State of California declare that the proponent of this act has a direct and personal stake in defending this act and grant formal authority to the proponent to defend this act in any legal proceeding, either by intervening in such legal proceeding, or by defending the act on behalf of the people and the state in the event that the state declines to defend the act or declines to appeal an adverse judgment against the act. In the event that the proponent is defending this act in a legal proceeding because the state has declined to defend it or to appeal an adverse judgment against it, the proponent shall: act as an agent of the people and the state; be subject to all ethical, legal, and fiduciary duties applicable to such parties in such legal proceedings; take and be subject to the oath of office prescribed by Section 3 of Article XX of the California Constitution for the limited purpose of acting on behalf of the people and the state in such legal proceeding; and be entitled to recover reasonable legal fees and related costs from the state.

**PROPOSITION 67**

This law proposed by Senate Bill 270 of the 2013–2014 Regular Session (Chapter 850, Statutes of 2014) is submitted to the people as a referendum in accordance with the provisions of Section 9 of Article II of the California Constitution.

This proposed law adds sections to the Public Resources Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

**PROPOSED LAW**

SECTION 1. Chapter 5.3 (commencing with Section 42280) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 5.3. SINGLE-USE CARRYOUT BAGS

Article 1. Definitions

42280. (a) "Department" means the Department of Resources Recycling and Recovery.

(b) "Postconsumer recycled material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

(c) "Recycled paper bag" means a paper carryout bag provided by a store to a customer at the point of sale that meets all of the following requirements:

(1) (A) Except as provided in subparagraph (B), contains a minimum of 40 percent postconsumer recycled materials.

(B) An eight pound or smaller recycled paper bag shall contain a minimum of 20 percent postconsumer recycled material.

(2) Is accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in the state.

(3) Has printed on the bag the name of the manufacturer, the country where the bag was manufactured, and the minimum percentage of postconsumer content.

(d) "Reusable grocery bag" means a bag that is provided by a store to a customer at the point of sale that meets the requirements of Section 42281.

(e) (1) "Reusable grocery bag producer" means a person or entity that does any of the following:

(A) Manufactures reusable grocery bags for sale or distribution to a store.

(B) Imports reusable grocery bags into this state, for sale or distribution to a store.

(C) Sells or distributes reusable bags to a store.

(2) "Reusable grocery bag producer" does not include a store, with regard to a reusable grocery bag for which there is a manufacturer or importer, as specified in subparagraph (A) or (B) of paragraph (1).

(f) (1) "Single-use carryout bag" means a bag made of plastic, paper, or other material that is provided by a store to a customer at the point of sale and that is not a recycled paper bag or a reusable grocery bag that meets the requirements of Section 42281.

(2) A single-use carryout bag does not include either of the following:

(A) A bag provided by a pharmacy pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code to a customer purchasing a prescription medication.

(B) A nonhandled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag, a reusable grocery bag, or a compostable plastic bag.

(C) A bag provided to contain an unwrapped food item.

(D) A nonhandled bag that is designed to be placed over articles of clothing on a hanger.

(g) "Store" means a retail establishment that meets any of the following requirements:

67

66

# Exhibit 2

PROPOSITION **DEATH PENALTY. PROCEDURES.**  
**66** INITIATIVE STATUTE.

**OFFICIAL TITLE AND SUMMARY**

PREPARED BY THE ATTORNEY GENERAL

- Changes procedures governing state court appeals and petitions challenging death penalty convictions and sentences.
- Designates superior court for initial petitions and limits successive petitions.
- Establishes time frame for state court death penalty review.
- Requires appointed attorneys who take noncapital appeals to accept death penalty appeals.
- Exempts prison officials from existing regulation process for developing execution methods.
- Authorizes death row inmate transfers among California prisons.
- Increases portion of condemned inmates' wages that may be applied to victim restitution.
- States other voter approved measures related to death penalty are void if this measure receives more affirmative votes.

**SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:**

- Unknown ongoing fiscal impact on state court costs for processing legal challenges to death sentences.
- Near-term increases in state court costs—potentially in the tens of millions of dollars annually—due to an acceleration of spending to address new time lines on legal challenges to death sentences. Savings of similar amounts in future years.
- Potential state prison savings that could be in the tens of millions of dollars annually.

**ANALYSIS BY THE LEGISLATIVE ANALYST**

**BACKGROUND**

**Death Sentences**

First degree murder is generally defined as the unlawful killing of a human being that (1) is deliberate and premeditated or (2) takes place while certain other crimes are committed, such as kidnapping. It is punishable by a life sentence in state prison with the possibility of being released by the state parole board after a minimum of 25 years. However, current state law makes first degree murder punishable by death or life imprisonment without the possibility of parole when "special circumstances" of the crime have been charged and proven in court. Existing state law identifies a number of special circumstances that can be charged, such as in cases when the murder was carried out for financial gain or when more than one murder was committed. In addition to first degree murder, state law also specifies a few other crimes, such as treason against the state of California, that can also be punished by death. Since the current death penalty law was enacted in California in 1978, 930 individuals have received a death sentence. In recent years, an average of about 20 individuals annually have received death sentences.

**Legal Challenges to Death Sentences**

**Two Ways to Challenge Death Sentences.** Following a death sentence, defendants can challenge the sentence in two ways:

- **Direct Appeals.** Under current state law, death penalty verdicts are automatically appealed to the California Supreme Court. In these "direct appeals," the defendants' attorneys argue that violations of state law or federal constitutional law took place during the trial, such as evidence improperly being included or excluded from the trial. These direct appeals focus on the records of the court proceedings that resulted in the defendant receiving a death sentence. If the California Supreme Court confirms the conviction and death sentence, the defendant can ask the U.S. Supreme Court to review the decision.
- **Habeas Corpus Petitions.** In addition to direct appeals, death penalty cases ordinarily involve extensive legal challenges—first in the California Supreme Court and then in federal courts. These challenges, which are commonly referred to as "habeas corpus" petitions, involve factors of the case that are different from those considered in direct appeals. Examples of such factors include claims that (1) the defendant's attorney was ineffective or (2) if the jury had been aware of additional information (such as biological, psychological, or social factors faced by the defendant), it would not have sentenced the defendant to death.

**Attorneys Appointed to Represent Condemned Inmates in Legal Challenges.** The California Supreme Court appoints attorneys to represent individuals who have been sentenced to death but cannot afford

**ANALYSIS BY THE LEGISLATIVE ANALYST**

CONTINUED

legal representation. These attorneys must meet qualifications established by the Judicial Council (the governing and policymaking body of the judicial branch). Some of these attorneys are employed by state agencies—specifically, the Office of the State Public Defender or the Habeas Corpus Resource Center. The remainder are private attorneys who are paid by the California Supreme Court. Different attorneys generally are appointed to represent individuals in direct appeals and habeas corpus petitions.

**State Incurs Legal Challenge Costs.** The state pays for the California Supreme Court to hear these legal challenges and for attorneys to represent condemned inmates. The state also pays for the attorneys employed by the state Department of Justice who seek to uphold death sentences while cases are being challenged in the courts. In total, the state currently spends about \$55 million annually on the legal challenges to death sentences.

**Legal Challenges Can Take a Couple of Decades.** Of the 930 individuals who have received a death sentence since 1978, 15 have been executed, 103 have died prior to being executed, 64 have had their sentences reduced by the courts, and 748 are in state prison with death sentences. The vast majority of the 748 condemned inmates are at various stages of the direct appeal or habeas corpus petition process. These legal challenges—measured from when the individual receives a death sentence to when the individual has completed all state and federal legal challenge proceedings—can take a couple of decades to complete in California due to various factors. For example, condemned inmates can spend significant amounts of time waiting for the California Supreme Court to appoint attorneys to represent them. As of April 2016, 49 individuals were waiting for attorneys to be appointed for their direct appeals and 360 individuals were waiting for attorneys to be appointed for their habeas corpus petitions. In addition, condemned inmates can spend a significant amount of time waiting for their cases to be heard by the courts. As of April 2016, an estimated 337 direct appeals and 263 state habeas corpus petitions were pending in the California Supreme Court.

**Implementation of the Death Penalty**

**Housing of Condemned Inmates.** Condemned male inmates generally are required to be housed at San Quentin State Prison (on death row), while condemned female inmates are housed at the Central California Women's Facility in Chowchilla. The state currently has various security regulations and

procedures that result in increased security costs for these inmates. For example, inmates under a death sentence generally are handcuffed and escorted at all times by one or two officers while outside their cells. In addition, unlike most inmates, condemned inmates are currently required to be placed in separate cells.

**Executions Currently Halted by Courts.** The state uses lethal injection to execute condemned inmates. However, because of different legal issues surrounding the state's lethal injection procedures, executions have not taken place since 2006. For example, the courts ruled that the state did not follow the administrative procedures specified in the Administrative Procedures Act when it revised its execution regulations in 2010. These procedures require state agencies to engage in certain activities to provide the public with a meaningful opportunity to participate in the process of writing state regulations. Draft lethal injection regulations have been developed and are currently undergoing public review.

**PROPOSAL**

This measure seeks to shorten the time that the legal challenges to death sentences take. Specifically, it (1) requires that habeas corpus petitions first be heard in the trial courts, (2) places time limits on legal challenges to death sentences, (3) changes the process for appointing attorneys to represent condemned inmates, and (4) makes various other changes. (There is another measure on this ballot—Proposition 62—that also relates to the death penalty. Proposition 62 would eliminate the death penalty for first degree murder.)

**Requires Habeas Corpus Petitions  
First Be Heard in Trial Courts**

The measure requires that habeas corpus petitions first be heard in trial courts instead of the California Supreme Court. (Direct appeals would continue to be heard in the California Supreme Court.) Specifically, these habeas corpus petitions would be heard by the judge who handled the original murder trial unless good cause is shown for another judge or court to hear the petition. The measure requires trial courts to explain in writing their decision on each petition, which could be appealed to the Courts of Appeal. The decisions made by the Courts of Appeal could then be appealed to the California Supreme Court. The measure allows the California Supreme Court to transfer any habeas corpus petitions currently pending before it to the trial courts.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

**Places Time Limits on  
Legal Challenges to Death Sentences**

**Requires Completion of Direct Appeal and Habeas Corpus Petition Process Within Five Years.** The measure requires that the direct appeal and the habeas corpus petition process be completed within five years of the death sentence. The measure also requires the Judicial Council to revise its rules to help ensure that direct appeals and habeas corpus petitions are completed within this time frame. The five-year requirement would apply to new legal challenges, as well as those currently pending in court. For challenges currently pending, the measure requires that they be completed within five years from when Judicial Council adopts revised rules. If the process takes more than five years, victims or their attorneys could request a court order to address the delay.

**Requires Filing of Habeas Corpus Petitions Within One Year of Attorney Appointment.** The measure requires that attorneys appointed to represent condemned inmates in habeas corpus petitions file the petition with the trial courts within one year of their appointment. The trial court generally would then have one year to make a decision on the petition. If a petition is not filed within this time period, the trial court must dismiss the petition unless it determines that the defendant is likely either innocent or not eligible for the death sentence.

**Places Other Limitations.** In order to help meet the above time frames, the measure places other limits on legal challenges to death sentences. For example, the measure does not allow additional habeas corpus petitions to be filed after the first petition is filed, except in those cases where the court finds that the defendant is likely either innocent or not eligible for the death sentence.

**Changes Process for Appointing Attorneys**

The measure requires the Judicial Council and the California Supreme Court to consider changing the qualifications that attorneys representing condemned inmates must meet. According to the measure, these qualifications should (1) ensure competent representation and (2) expand the number of attorneys that can represent condemned inmates so that legal challenges to death sentences are heard in a timely manner. The measure also requires trial courts—rather than the California Supreme Court—to appoint attorneys for habeas corpus petitions.

In addition, the measure changes how attorneys are appointed for direct appeals under certain circumstances. Currently, the California Supreme

Court appoints attorneys from a list of qualified attorneys it maintains. Under the measure, certain attorneys could also be appointed from the lists of attorneys maintained by the Courts of Appeal for non-death penalty cases. Specifically, those attorneys who (1) are qualified for appointment to the most serious non-death penalty appeals and (2) meet the qualifications adopted by the Judicial Council for appointment to death penalty cases would be required to accept appointment to direct appeals if they want to remain on the Courts of Appeal's appointment lists.

**Makes Other Changes**

**Habeas Corpus Resources Center Operations.** The measure eliminates the Habeas Corpus Resources Center's five-member board of directors and requires the California Supreme Court to oversee the center. The measure also requires that the center's attorneys be paid at the same level as attorneys at the Office of the State Public Defender, as well as limits its legal activities.

**Inmate Work and Payments to Victims of Crime Requirements.** Current state law generally requires that inmates work while they are in prison. State prison regulations allow for some exceptions to these requirements, such as for inmates who pose too great a security risk to participate in work programs. In addition, inmates may be required by the courts to make payments to victims of crime. Up to 50 percent of any money inmates receive is used to pay these debts. This measure specifies that every person under a sentence of death must work while in state prison, subject to state regulations. Because the measure does not change state regulations, existing prison practices related to inmate work requirements would not necessarily be changed. In addition, the measure requires that 70 percent of any money condemned inmates receive be used to pay any debts owed to victims.

**Enforcement of Death Sentence.** The measure allows the state to house condemned inmates in any prison. The measure also exempts the state's execution procedures from the Administrative Procedures Act. In addition, the measure makes various changes regarding the method of execution used by the state. For example, legal challenges to the method could only be heard in the court that imposed the death sentence. In addition, if such challenges were successful, the measure requires the trial court to order a valid method of execution. In cases where federal court orders prevent the state from using a given method of execution, the state prisons would be required to develop a method of execution that meets

**ANALYSIS BY THE LEGISLATIVE ANALYST**

CONTINUED

federal requirements within 90 days. Finally, the measure exempts various health care professionals that assist with executions from certain state laws and disciplinary actions by licensing agencies, if those actions are imposed as a result of assisting with executions.

**FISCAL EFFECTS**

**State Court Costs**

**Impact on Cost Per Legal Challenge Uncertain.** The fiscal impact of the measure on state court-related costs of each legal challenge to a death sentence is uncertain. This is because the actual cost could vary significantly depending on four key factors: (1) the complexity of the legal challenges filed, (2) how state courts address existing and new legal challenges, (3) the availability of attorneys to represent condemned inmates, and (4) whether additional attorneys will be needed to process each legal challenge.

On the one hand, the measure could reduce the cost of each legal challenge. For example, the requirement that each challenge generally be completed in five years, as well as the limits on the number of habeas corpus petitions that can be filed, could result in the filing of fewer, shorter legal documents. Such a change could result in each legal challenge taking less time and state resources to process.

On the other hand, some of the measure's provisions could increase state costs for each legal challenge. For example, the additional layers of review required for a habeas corpus petition could result in additional time and resources for the courts to process each legal challenge. In addition, there could be additional attorney costs if the state determines that a new attorney must be appointed when a habeas corpus petition ruling by the trial courts is appealed to the Courts of Appeal.

In view of the above, the ongoing annual fiscal impact of the measure on state costs related to legal challenges to death sentences is unknown.

**Near-Term Annual Cost Increases From Accelerated Spending on Existing Cases.** Regardless of how the

measure affects the cost of each legal challenge, the measure would accelerate the amount the state spends on legal challenges to death sentences. This is because the state would incur annual cost increases in the near term to process hundreds of pending legal challenges within the time limits specified in the measure. The state would save similar amounts in future years as some or all of these costs would have otherwise occurred over a much longer term absent this measure. Given the significant number of pending cases that would need to be addressed, the actual amount and duration of these accelerated costs in the near term is unknown. It is possible, however, that such costs could be in the tens of millions of dollars annually for many years.

**State Prisons**

To the extent that the state changes the way it houses condemned inmates, the measure could result in state prison savings. For example, if male inmates were transferred to other prisons instead of being housed in single cells at San Quentin, it could reduce the cost of housing and supervising these inmates. In addition, to the extent the measure resulted in additional executions that reduced the number of condemned inmates, the state would also experience additional savings. In total, such savings could potentially reach the tens of millions of dollars annually.

**Other Fiscal Effects**

To the extent that the changes in this measure have an effect on the incidence of murder in California or how often prosecutors seek the death penalty in murder trials, the measure could affect state and local government expenditures. The resulting fiscal impact, if any, is unknown and cannot be estimated.

Visit <http://www.sos.ca.gov/measure-contributions> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html> to access the committee's top 10 contributors.



# Exhibit 3

October 16, 2015

**RECEIVED**

OCT 20 2015

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICEInitiative Coordinator  
Office of the Attorney General  
State of California  
PO Box 994255  
Sacramento, CA 94244-25550

Re: Request for Preparation of Circulating Title and Summary for Proposed Initiative

Dear Initiative Coordinator:

Pursuant to Article II, Section 10(d) of the California Constitution, we submit the enclosed proposed statewide ballot measure ("*Death Penalty Reform and Savings Act of 2016*") to your office and request that you prepare a circulating title and summary of the measure as provided by law. Also enclosed are the required statements signed by each proponent pursuant to California Elections Code sections 9001 and 9608, and a check in the amount of \$200. The address of each proponent as registered to vote is shown on Attachment 'A' to this letter.

Please direct inquiries from the media and the public to:

Charles H. Bell, Jr.  
BELL, McANDREWS & HILTACHK, LLP  
455 Capitol Mall, Suite 600  
Sacramento, CA 95814

Thank you for your time and attention to this important matter.

SUBMITTED BY:



KERMIT ALEXANDER

(Language added is designated in *italicized* type and language deleted is designated in ~~strikeout~~ type)

## SEC 1. SHORT TITLE.

**This Act shall be known and may be cited as the Death Penalty Reform and Savings Act of 2016.**

## SEC. 2. FINDINGS AND DECLARATIONS.

1. California's death penalty system is ineffective because of waste, delays, and inefficiencies. Fixing it will save California taxpayers millions of dollars every year. These wasted taxpayer dollars would be better used for crime prevention, education, and services for the elderly and disabled.

2. Murder victims and their families are entitled to justice and due process. Death row killers have murdered over 1000 victims, including 229 children and 43 police officers; 235 victims were raped and 90 victims were tortured.

3. Families of murder victims should not have to wait decades for justice. These delays further victimize the families who are waiting for justice. For example, serial killer Robert Rhoades, who kidnapped, raped, tortured, and murdered 8-year-old Michael Lyons and also raped and murdered Bay Area high school student Julie Connell, has been sitting on death row for over 16 years. Hundreds of killers have sat on death row for over 20 years.

4. In 2012, the Legislative Analyst's Office found that eliminating special housing for death row killers will save tens of millions of dollars every year. These savings could be invested in our schools, law enforcement, and communities to keep us safer.

5. Death row killers should be required to work in prison and pay restitution to their victims' families consistent with the Victims' Bill of Rights (Marsy's law). Refusal to work and pay restitution should result in loss of special privileges.

6. Reforming the existing inefficient appeals process for death penalty cases will ensure fairness for both defendants and victims. Right now, capital defendants wait five years or more for appointment of their appellate lawyer. By providing prompt appointment of attorneys, the defendants' claims will be heard sooner.

7. A defendant's claim of actual innocence should not be limited, but frivolous and unnecessary claims should be restricted. These tactics have wasted taxpayer dollars and delayed justice for decades.

8. The state agency that is supposed to expedite secondary review of death penalty cases is operating without any effective oversight, causing long-term delays and wasting taxpayer dollars. California Supreme Court oversight of this state agency will ensure accountability.

9. Bureaucratic regulations have needlessly delayed enforcement of death penalty verdicts. Eliminating wasteful spending on repetitive challenges to these regulations will result in the fair and effective implementation of justice.

10. The California Constitution gives crime victims the right to timely justice. A capital case can be fully and fairly reviewed by both the state and federal courts within ten years. By adopting state rules and procedures, victims will receive timely justice and taxpayers will save hundreds of millions of dollars.

11. California's Death Row includes serial killers, cop killers, child killers, mass murderers, and hate crime killers. The death penalty system is broken, but it can and should be fixed. This initiative will ensure justice for both victims and defendants, and will save hundreds of millions of taxpayer dollars.

SEC. 3. Section 190.6 of the Penal Code is amended to read:

(a) The Legislature finds that the sentence in all capital cases should be imposed expeditiously.

(b) Therefore, in all cases in which a sentence of death has been imposed on or after January 1, 1997, the opening appellate brief in the appeal to the State Supreme Court shall be filed no later than seven months after the certification of the record for completeness under subdivision (d) of Section 190.8 or receipt by the appellant's counsel of the completed record, whichever is later, except for good cause. However, in those cases where the trial transcript exceeds 10,000 pages, the briefing shall be completed within the time limits and pursuant to the procedures set by the rules of court adopted by the Judicial Council.

(c) In all cases in which a sentence of death has been imposed on or after January 1, 1997, it is the Legislature's goal that the appeal be decided and an opinion reaching the merits be filed within 210 days of the completion of the briefing. However, where the appeal and a petition for writ of habeas corpus is heard at the same time, the petition should be decided and an opinion reaching the merits should be filed within 210 days of the completion of the briefing for the petition.

*(d) The right of victims of crime to a prompt and final conclusion, as provided in subdivision (b)(9) of section 28, of the Constitution, includes the right to have judgments of death carried out within a reasonable time. Within 18 months of the effective date of this initiative, the Judicial Council shall adopt initial rules and standards of administration designed to expedite the processing of capital appeals and state habeas corpus review. Within five years of the adoption of the initial rules or the entry of judgment, whichever is later, the state courts shall complete the state appeal and the initial state habeas corpus review in capital cases. The Judicial Council shall continuously monitor the timeliness of review of capital cases and shall amend the rules and standards as necessary to complete the state appeal and initial state habeas corpus proceedings within the five-year period provided in this subsection.*

~~(d)-(e) The failure of the parties or the Supreme Court to meet or comply with the time limit provided by this section shall not be a ground for granting relief from a judgment of conviction or sentence of death of a court to comply with the time limit in subdivision (b) of this section shall not affect the validity of the~~

*judgment or require dismissal of an appeal or habeas corpus petition. If a court fails to comply without extraordinary and compelling reasons justifying the delay, either party or any victim of the offense may seek relief by petition for writ of mandate. The court in which the petition is filed shall act on it within 60 days of filing. Subdivision (c)(1) of section 28 of the Constitution, regarding standing to enforce victims' rights, applies to this subdivision and subdivision (d) of this section.*

SEC. 4. Section 1227 of the Penal Code is amended to read:

(a) If for any reason other than the pendency of an appeal pursuant to subdivision (b) of Section 1239 of this code a judgment of death has not been executed, and it remains in force, the court in which the conviction was had shall, on application of the district attorney, or may upon its own motion, make and cause to be entered an order ~~appointing a day upon~~ *specifying a period of 10 days during which the judgment shall be executed, which must not be less than 30 days nor more than 60 days from the time of making such order; and immediately thereafter. The 10-day period shall begin no less than 30 days after the order is entered and shall end no more than 60 days after the order is entered. Immediately after the order is entered, a certified copy of such the order, attested by the clerk, under the seal of the court, shall, for the purpose of execution, be transmitted by registered mail to the warden of the state prison having the custody of the defendant; provided, that if the defendant be at large, a warrant for his apprehension may be issued, and upon being apprehended, he shall be brought before the court, whereupon the court shall make an order directing the warden of the state prison to whom the sheriff is instructed to deliver the defendant to execute the judgment at a specified time within a period of 10 days, which shall not be begin less than 30 days nor end more than 60 days from the time of making such order.*

(b) From an order fixing the time for and directing the execution of such judgment as herein provided, there shall be no appeal.

SEC. 5. Section 1239.1 is added to the Penal Code to read:

*1239.1. (a) It is the duty of the Supreme Court in a capital case to expedite the review of the case. The court shall appoint counsel for an indigent appellant as soon as possible. The court shall only grant extensions of time for briefing for compelling or extraordinary reasons.*

*(b) When necessary to remove a substantial backlog in appointment of counsel for capital cases, the Supreme Court shall require attorneys who are qualified for appointment to the most serious non-capital appeals and who meet the qualifications for capital appeals to accept appointment in capital cases as a condition for remaining on the court's appointment list. A substantial backlog exists for this purpose when the time from entry of judgment in the trial court to appointment of counsel for appeal exceeds six months over a period of twelve consecutive months.*

SEC. 6. Section 1509 is added to the Penal Code to read:

*1509. (a) This section applies to any petition for writ of habeas corpus filed by a person in custody pursuant to a judgment of death. A writ of habeas corpus pursuant to this section is the exclusive procedure for collateral attack on a judgment of death. A petition filed in any court other than the court which imposed the sentence should be promptly transferred to that court unless good cause is shown for the petition to be heard by another court. A petition filed in or transferred to the court which imposed the sentence shall be assigned to the original trial judge unless that judge is unavailable or there is other good cause to assign the case to a different judge.*

*(b) After the entry of a judgment of death in the trial court, that court shall offer counsel to the prisoner as provided in section 68662 of the Government Code.*

*(c) Except as provided in subdivisions (d) and (g), the initial petition must be filed within one year of the order entered under section 68662 of the Government Code.*

*(d) An initial petition which is untimely under subdivision (c) or a successive petition whenever filed shall be dismissed unless the court finds, by the preponderance of all available evidence, whether or not admissible at trial, that the defendant is actually innocent of the crime of which he or she was convicted or is ineligible for the sentence. A stay of execution shall not be granted for the purpose of considering a successive or untimely petition unless the court finds that the petitioner has a substantial claim of actual innocence or ineligibility. Ineligible for the sentence of death means that circumstances exist placing that sentence outside the range of the sentencer's discretion. Claims of ineligibility include a claim that none of the special circumstances in subdivision (a) of section 190.2 is true, a claim that the defendant was under the age of 18 at the time of the crime, or a claim that the defendant has an intellectual disability as defined in*

*section 1376. A claim relating to the sentencing decision under section 190.3 is not a claim of actual innocence or ineligibility for the purpose of this section.*

*(e) A petitioner claiming innocence or ineligibility under subdivision (d) of this section shall disclose all material information relating to guilt or eligibility in the possession of the petitioner or present or former counsel for petitioner. If the petitioner willfully fails to make the disclosure required by this subdivision and authorize disclosure by counsel, the petition may be dismissed.*

*(f) Proceedings under this section shall be conducted as expeditiously as possible consistent with a fair adjudication. The superior court shall resolve the initial petition within one year of filing unless the court finds that a delay is necessary to resolve a substantial claim of actual innocence, but in no instance shall the court take longer than two years to resolve the petition. On decision of an initial petition, the court shall issue a statement of decision explaining the factual and legal basis for its decision.*

*(g) If a habeas corpus petition is pending on the effective date of this section, the court may transfer the petition to the court which imposed the sentence. In a case where a judgment of death was imposed prior to the effective date of this section but no habeas corpus petition has been filed prior to the effective date of this section, a petition that would otherwise be barred by subdivision (c) of this section may be filed within one year of the effective date or within the time allowed under prior law, whichever is earlier.*

SEC. 7. Section 1509.1 is added to the Penal Code to read:

*1509.1. (a) Either party may appeal the decision of a superior court on an initial petition under section 1509 to the court of appeal. An appeal shall be taken by filing a notice of appeal in the superior court within 30 days of the court's decision granting or denying the habeas petition. A successive petition shall not be used as a means of reviewing a denial of habeas relief.*

*(b) The issues considered on an appeal under subdivision (a) of this section shall be limited to the claims raised in the superior court, except that the court of appeal may also consider a claim of ineffective assistance of trial counsel if the failure of habeas counsel to present that claim to the superior court constituted ineffective assistance. The court of appeal may, if additional findings of fact are required, make a limited remand to the superior court to consider the claim.*

*(c) The people may appeal the decision of the superior court granting relief on a successive petition. The petitioner may appeal the decision of the superior court denying relief on a successive petition only if the superior court or the court of appeal grants a certificate of appealability. A certificate of appealability may issue under this subdivision only if the petitioner has shown both a substantial claim for relief, which shall be indicated in the certificate, and a substantial claim that the requirements of subdivision (d) of section 1509 have been met. An appeal under this subdivision shall be taken by filing a notice of appeal in the superior court within 30 days of the court's decision. The superior court shall grant or deny a certificate of appealability concurrently with a decision denying relief on the petition. The court of appeal shall grant or deny a request for a certificate of appealability within 10 days of an application for a certificate. The jurisdiction of the court of appeal is limited to the claims identified in the certificate and any additional claims added by the court of appeal within 60 days of the notice of appeal. An appeal under this subdivision shall have priority over all other matters and be decided as expeditiously as possible.*

SEC. 8. Section 2700.1 of the Penal Code is added to read:

*2700.1. Section 2700 applies to inmates sentenced to death except as otherwise provided in this section.*

*Every person found guilty of murder, sentenced to death, and held by the Department of Corrections and Rehabilitation pursuant to sections 3600 to 3602 shall be required to work as many hours of faithful labor each day he or she is so held as shall be prescribed the rules and regulations of the Department.*

*Physical education and physical fitness programs shall not qualify as work for purposes of this section. The Department of Corrections and Rehabilitation may revoke the privileges of any condemned inmate who refuses to work as required by this section.*

*In any case where the condemned inmate owes a restitution fine or restitution order, the Secretary of the Department of Corrections and Rehabilitation shall deduct 70% or the balance owing, whichever is less, from the condemned inmate's wages and trust account deposits, regardless of the source of the income, and shall transfer those funds to the California Victim Compensation and Government Claims Board according to the rules and regulations of the Department of Corrections and Rehabilitation, pursuant to sections 2085.5 and 2717.8 of the Penal Code.*

SEC. 9. Section 3600 of the Penal Code is amended to read:

3600. ~~(a) Every male person, upon whom has been imposed the judgment of death, shall be delivered to the warden of the California state prison designated by the department~~ Department for the execution of the death penalty, ~~there to be kept until the execution of the judgment, as provided in subdivision (b). The inmate shall be kept in a California prison until execution of the judgment. The Department may transfer the inmate to another prison which it determines to provide a level of security sufficient for that inmate. The inmate shall be returned to the prison designated for execution of the death penalty after an execution date has been set.~~

~~(b) Notwithstanding any other provision of law:~~

~~(1) A condemned inmate who, while in prison, commits any of the following offenses, or who, as a member of a gang or disruptive group, orders others to commit any of these offenses, may, following disciplinary sanctions and classification actions at San Quentin State Prison, pursuant to regulations established by the Department of Corrections, be housed in secure condemned housing designated by the Director of Corrections, at the California State Prison, Sacramento:~~

~~(A) Homicide.~~

~~(B) Assault with a weapon or with physical force capable of causing serious or mortal injury.~~

~~(C) Escape with force or attempted escape with force.~~

~~(D) Repeated serious rules violations that substantially threaten safety or security.~~

~~(2) The condemned housing program at California State Prison, Sacramento, shall be fully operational prior to the transfer of any condemned inmate.~~

~~(3) Specialized training protocols for supervising condemned inmates shall be provided to those line staff and supervisors at the California State Prison, Sacramento, who supervise condemned inmates on a regular basis.~~

~~(4) An inmate whose medical or mental health needs are so critical as to endanger the inmate or others may, pursuant to regulations established by the Department of Corrections, be housed at the California Medical Facility or other~~

~~appropriate institution for medical or mental health treatment. The inmate shall be returned to the institution from which the inmate was transferred when the condition has been adequately treated or is in remission.~~

~~(c) When housed pursuant to subdivision (b) the following shall apply: Those local procedures relating to privileges and classification procedures provided to Grade B condemned inmates at San Quentin State Prison shall be similarly instituted at California State Prison, Sacramento, for condemned inmates housed pursuant to paragraph (1) of subdivision (b) of Section 3600. Those classification procedures shall include the right to the review of a classification no less than every 90 days and the opportunity to petition for a return to San Quentin State Prison.~~

~~(2) Similar attorney client access procedures that are afforded to condemned inmates housed at San Quentin State Prison shall be afforded to condemned inmates housed in secure condemned housing designated by the Director of Corrections, at the California State Prison, Sacramento. Attorney client access for condemned inmates housed at an institution for medical or mental health treatment shall be commensurate with the institution's visiting procedures and appropriate treatment protocols.~~

~~(3) A condemned inmate housed in secure condemned housing pursuant to subdivision (b) shall be returned to San Quentin State Prison at least 60 days prior to his scheduled date of execution.~~

~~(4) No more than 15 condemned inmates may be rehoused pursuant to paragraph (1) of subdivision (b).~~

~~(d) Prior to any relocation of condemned row from San Quentin State Prison, whether proposed through legislation or any other means, all maximum security Level IV, 180-degree housing unit facilities with an electrified perimeter shall be evaluated by the Department of Corrections for suitability for the secure housing and execution of condemned inmates.~~

SEC. 10. Section 3604 of the Penal Code is amended to read:

(a) The punishment of death shall be inflicted by the administration of a lethal gas or by an intravenous injection of a substance or substances in a lethal quantity sufficient to cause death, by standards established under the direction of the Department of Corrections and Rehabilitation.

(b) Persons sentenced to death prior to or after the operative date of this subdivision shall have the opportunity to elect to have the punishment imposed by lethal gas or lethal injection. This choice shall be made in writing and shall be submitted to the warden pursuant to regulations established by the Department of Corrections. If a person under sentence of death does not choose either lethal gas or lethal injection within 10 days after the warden's service upon the inmate of an execution warrant issued following the operative date of this subdivision, the penalty of death shall be imposed by lethal injection.

(c) Where the person sentenced to death is not executed on the date set for execution and a new execution date is subsequently set, the inmate again shall have the opportunity to elect to have punishment imposed by lethal gas or lethal injection, according to the procedures set forth in subdivision (b).

(d) Notwithstanding subdivision (b), if either manner of execution described in subdivision (a) is held invalid, the punishment of death shall be imposed by the alternative means specified in subdivision (a).

*(e) The Department of Corrections and Rehabilitation, or any successor agency with the duty to execute judgments of death, shall maintain at all times the ability to execute such judgments.*

SEC. 11. Section 3604.1 is added to the Penal Code to read:

*3604.1. (a) The Administrative Procedure Act shall not apply to standards, procedures, or regulations promulgated pursuant to section 3604. The Department shall make the standards adopted under subdivision (a) of that section available to the public and to inmates sentenced to death. The Department shall promptly notify the Attorney General, the State Public Defender, and counsel for any inmate for whom an execution date has been set or for whom a motion to set an execution date is pending of any adoption or amendment of the standards. Noncompliance with this subdivision is not a ground for stay of an execution or an injunction against carrying out an execution unless the noncompliance has actually prejudiced the inmate's ability to challenge the standard, and in that event the stay shall be limited to a maximum of ten days.*

*(b) Notwithstanding subdivision (a) of section 3604, an execution by lethal injection may be carried out by means of an injection other than intravenous if the warden determines that the condition of the inmate makes intravenous injection impractical.*

*(c) The court which rendered the judgment of death has exclusive jurisdiction to hear any claim by the condemned inmate that the method of execution is unconstitutional or otherwise invalid. Such a claim shall be dismissed if the court finds its presentation was delayed without good cause. If the method is found invalid, the court shall order the use of a valid method of execution. If the use of a method of execution is enjoined by a federal court, the Department of Corrections and Rehabilitation shall adopt, within 90 days, a method that conforms to federal requirements as found by that court. If the Department fails to perform any duty needed to enable it to execute the judgment, the court which rendered the judgment of death shall order it to perform that duty on its own motion, on motion of the District Attorney or Attorney General, or on motion of any victim of the crime as defined in article I, section 28, subdivision (c) of the Constitution.*

SEC. 12. Section 3604.3 is added to the Penal Code to read:

*3604.3. (a) A physician may attend an execution for the purpose of pronouncing death and may provide advice to the Department for the purpose of developing an execution protocol to minimize the risk of pain to the inmate.*

*(b) The purchase of drugs, medical supplies or medical equipment necessary to carry out an execution shall not be subject to the provisions of Chapter 9 (commencing with section 4000) of Division 2 of the Business and Professions Code, and any pharmacist, or supplier, compounder, or manufacturer of pharmaceuticals is authorized to dispense drugs and supplies to the Secretary or the Secretary's designee, without prescription, for carrying out the provisions of this chapter.*

*(c) No licensing board, Department, commission, or accreditation agency which oversees or regulates the practice of health care or certifies or licenses health care professionals may deny or revoke a license or certification, censure, reprimand, suspend, or take any other disciplinary action against any licensed health care professional for any action authorized by this section.*

SEC. 13. Section 68660.5 is added to the Government Code to read:

*68660.5. The purposes of this chapter are to qualify the State of California for the handling of federal habeas corpus petitions under chapter 154 of title 28 of the United States Code, to expedite the completion of state habeas corpus proceedings*

*in capital cases, and to provide quality representation in state habeas corpus for inmates sentenced to death. This chapter shall be construed and administered consistently with those purposes.*

SEC. 14. Section 68661 of the Government Code is amended to read:

68661. There is hereby created in the judicial branch of state government the California Habeas Corpus Resource Center, which shall have all of the following general powers and duties:

(a) To employ up to 34 attorneys who may be appointed ~~by the Supreme Court pursuant to section 68662~~ to represent any person convicted and sentenced to death in this state who is without counsel, and who is determined by a court of competent jurisdiction to be indigent, for the purpose of instituting and prosecuting ~~postconviction actions~~ *habeas corpus petitions* in the state and federal courts, challenging the legality of the judgment or sentence imposed against that person, *subject to the limitations in section 68661.1*, and preparing petitions for executive clemency. Any such appointment may be concurrent with the appointment of the State Public Defender or other counsel for purposes of direct appeal under Section 11 of Article VI of the California Constitution.

(b) To seek reimbursement for representation and expenses pursuant to Section 3006A of Title 18 of the United States Code when providing representation to indigent persons in the federal courts and process those payments via the Federal Trust Fund.

(c) To work with the ~~Supreme Court~~ *courts* in recruiting members of the private bar to accept death penalty habeas case appointments.

(d) To ~~establish and periodically update~~ *recommend attorneys to the Supreme Court for inclusion in a roster of attorneys qualified as counsel in postconviction habeas corpus proceedings in capital cases, provided that the final determination of whether to include an attorney in the roster shall be made by the Supreme Court and not delegated to the center.*

(e) To establish and periodically update a roster of experienced investigators and experts who are qualified to assist counsel in ~~postconviction~~ *habeas corpus* proceedings in capital cases.

(f) To employ investigators and experts as staff to provide services to

appointed counsel upon request of counsel, provided that when the provision of those services is to private counsel under appointment by the Supreme Court, those services shall be pursuant to contract between appointed counsel and the center.

(g) To provide legal or other advice or, ~~to the extent not otherwise available, any other assistance~~ to appointed counsel in ~~postconviction~~ *habeas corpus* proceedings as is appropriate when not prohibited by law.

(h) To develop a brief bank of pleadings and related materials on significant, recurring issues that arise in ~~postconviction~~ *habeas corpus* proceedings in capital cases and to make those briefs available to appointed counsel.

(i) To evaluate cases and recommend assignment by the court of appropriate attorneys.

(j) To provide assistance and case progress monitoring as needed.

(k) To timely review case billings and recommend compensation of members of the private bar to the court.

(l) The center shall report annually to *the people*, the Legislature, the Governor, and the Supreme Court on the status of the appointment of counsel for indigent persons in ~~postconviction~~ *habeas corpus* capital cases, and on the operations of the center. ~~On or before January 1, 2000, the office of the Legislative Analyst shall evaluate the available reports. The report shall list all cases in which the center is providing representation. For each case that has been pending more than one year in any court, the report shall state the reason for the delay and the actions the center is taking to bring the case to completion.~~

SEC. 15. Section 68661.1 is added to the Government Code to read:

*68661.1. (a) The center may represent a person sentenced to death on a federal habeas corpus petition if and only if (1) the center was appointed to represent that person on state habeas corpus, (2) the center is appointed for that purpose by the federal court, and (3) the executive director determines that compensation from the federal court will fully cover the cost of representation. Neither the center nor any other person or entity receiving state funds shall spend state funds to attack in federal court any judgment of a California court in a capital case, other than review in the Supreme Court pursuant to 28 U.S.C. §1257.*

*(b) The center is not authorized to represent any person in any action other than habeas corpus which constitutes a collateral attack on the judgment or seeks to delay or prevent its execution. The center shall not engage in any other litigation or expend funds in any form of advocacy other than as expressly authorized by this section or section 68661.*

SEC. 16. Section 68662 of the Government Code is amended to read:

68662. The ~~Supreme Court~~ *superior court which imposed the sentence* shall offer to appoint counsel to represent ~~all a state prisoners~~ *a prisoner* subject to a capital sentence for purposes of state postconviction proceedings, and shall enter an order containing one of the following:

(a) The appointment of one or more counsel to represent the prisoner in ~~postconviction state~~ *proceedings pursuant to section 1509 of the Penal Code* upon a finding that the person is indigent and has accepted the offer to appoint counsel or is unable to competently decide whether to accept or reject that offer.

(b) A finding, after a hearing if necessary, that the prisoner rejected the offer to appoint counsel and made that decision with full understanding of the legal consequences of the decision.

(c) The denial to appoint counsel upon a finding that the person is not indigent.

SEC. 17. Section 68664 of the Government Code is amended to read:

68664. (a) The center shall be managed by an executive director who shall be responsible for the day-to-day operations of the center.

(b) The executive director shall be chosen by ~~a five member board of directors and confirmed by the Senate. Each Appellate Project shall appoint one board member, all of whom shall be attorneys. However, no attorney who is employed as a judge, prosecutor, or in a law enforcement capacity shall be eligible to serve on the board~~ *the Supreme Court*. The executive director shall serve at the will of the ~~board~~ *Supreme Court*.

(c) ~~Each member of the board shall be appointed to serve a four year term, and vacancies shall be filled in the same manner as the original appointment. Members of~~

~~the board shall receive no compensation, but shall be reimbursed for all reasonable and necessary expenses incidental to their duties. The first members of the board shall be appointed no later than February 1, 1998. The executive director shall insure that all matters in which the center provides representation are completed as expeditiously as possible consistent with effective representation.~~

(d) The executive director shall meet the appointment qualifications of the State Public Defender as specified in Section 15400.

~~(e) The executive director shall receive the salary that shall be specified for the executive director State Public Defender in Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2. All other attorneys employed by the center shall be compensated at the same level as comparable positions in the Office of the State Public Defender.~~

SEC. 18. Section 68665 of the Government Code is amended to read:

68665. (a) The Judicial Council and the Supreme Court shall adopt, by rule of court, binding and mandatory competency standards for the appointment of counsel in death penalty direct appeals and habeas corpus proceedings, *and they shall reevaluate the standards as needed to ensure that they meet the criteria in subdivision (b) of this section.*

*(b) In establishing and reevaluating the standards, the Judicial Council and the Supreme Court shall consider the qualifications needed to achieve competent representation, the need to avoid unduly restricting the available pool of attorneys so as to provide timely appointment, and the standards needed to qualify for chapter 154 of title 28 of the United States Code. Experience requirements shall not be limited to defense experience.*

SEC. 19. EFFECTIVE DATE. Except as more specifically provided in this act, all sections of this act take effect immediately upon enactment and apply to all proceedings conducted on or after the effective date.

SEC. 20. AMENDMENTS. The statutory provisions of this act shall not be amended by the Legislature except by a statute passed in each house by roll call vote entered in the journal, three-fourths of the membership of each house concurring, or by a statute that becomes effective only when approved by the

voters.

## SEC. 21. SEVERABILITY/CONFLICTING MEASURES/STANDING.

If any provision of this Act, or any part of any provision, or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remaining provisions and applications which can be given effect without the invalid or unconstitutional provision or application shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

This measure is intended to be comprehensive. It is the intent of the People that in the event this measure or measures relating to the subject of capital punishment shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

The People of the State of California declare that the proponent of this Act has a direct and personal stake in defending this Act and grant formal authority to the proponent to defend this Act in any legal proceeding, either by intervening in such legal proceeding, or by defending the Act on behalf of the People and the State in the event that the State declines to defend the Act or declines to appeal an adverse judgment against the Act. In the event that the proponent is defending this Act in a legal proceeding because the State has declined to defend it or to appeal an adverse judgment against it, the proponent shall: act as an agent of the people and the State; be subject to all ethical, legal, and fiduciary duties applicable to such parties in such legal proceedings; take and be subject to the Oath of Office prescribed by Article XX, section 3 of the California Constitution for the limited purpose of acting on behalf of the People and the State in such legal proceeding; and be entitled to recover reasonable legal fees and related costs from the State.

# Exhibit 4



# STATEMENT OF VOTE

NOVEMBER 8, 2016

GENERAL ELECTION

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SECRETARY *of* STATE ALEX PADILLA



**STATEMENT OF VOTE SUMMARY PAGES**

<b>State Assemblymember District 80</b>	<b>Votes</b>	<b>Percent</b>	<b>Proposition 60</b>	<b>Votes</b>	<b>Percent</b>
Lorena Gonzalez*, DEM	108,655	77.8%	<b>Adult Film Condom Requirements</b>		
Lincoln Pickard, REP	30,917	22.2%	Yes	6,168,388	46.3%
			No	7,146,039	53.7%
<b>Proposition 51</b>	<b>Votes</b>	<b>Percent</b>			
<b>K-12 and Community College Facilities</b>			<b>Proposition 61</b>	<b>Votes</b>	<b>Percent</b>
Yes	7,516,142	55.2%	<b>State Prescription Drug Purchase Standards</b>		
No	6,104,294	44.8%	Yes	6,254,342	46.8%
			No	7,109,642	53.2%
<b>Proposition 52</b>	<b>Votes</b>	<b>Percent</b>			
<b>Medi-Cal Hospital Fee Program</b>			<b>Proposition 62</b>	<b>Votes</b>	<b>Percent</b>
Yes	9,427,714	70.1%	<b>Repeal of Death Penalty</b>		
No	4,026,710	29.9%	Yes	6,361,788	46.8%
			No	7,218,625	53.2%
<b>Proposition 53</b>	<b>Votes</b>	<b>Percent</b>			
<b>Voter Approval of Revenue Bonds</b>			<b>Proposition 63</b>	<b>Votes</b>	<b>Percent</b>
Yes	6,508,909	49.4%	<b>Firearms and Ammunition Sales</b>		
No	6,660,555	50.6%	Yes	8,663,159	63.1%
			No	5,070,772	36.9%
<b>Proposition 54</b>	<b>Votes</b>	<b>Percent</b>			
<b>Legislative Procedure Requirements</b>			<b>Proposition 64</b>	<b>Votes</b>	<b>Percent</b>
Yes	8,607,266	65.4%	<b>Marijuana Legalization</b>		
No	4,559,903	34.6%	Yes	7,979,041	57.1%
			No	5,987,020	42.9%
<b>Proposition 55</b>	<b>Votes</b>	<b>Percent</b>			
<b>Tax Extension for Education and Healthcare</b>			<b>Proposition 65</b>	<b>Votes</b>	<b>Percent</b>
Yes	8,594,273	63.3%	<b>Carryout Bag Charges</b>		
No	4,988,329	36.7%	Yes	6,222,547	46.1%
			No	7,276,478	53.9%
<b>Proposition 56</b>	<b>Votes</b>	<b>Percent</b>			
<b>Cigarette Tax</b>			<b>Proposition 66</b>	<b>Votes</b>	<b>Percent</b>
Yes	8,980,448	64.4%	<b>Death Penalty Procedure Time Limits</b>		
No	4,957,994	35.6%	Yes	6,626,159	51.1%
			No	6,333,731	48.9%
<b>Proposition 57</b>	<b>Votes</b>	<b>Percent</b>			
<b>Criminal Sentences &amp; Juvenile Crime Proceedings</b>			<b>Proposition 67</b>	<b>Votes</b>	<b>Percent</b>
Yes	8,790,723	64.5%	<b>Ban on Single-use Plastic Bags</b>		
No	4,847,354	35.5%	Yes	7,228,900	53.3%
			No	6,340,322	46.7%
<b>Proposition 58</b>	<b>Votes</b>	<b>Percent</b>			
<b>English Proficiency. Multilingual Education.</b>					
Yes	9,994,454	73.5%			
No	3,598,855	26.5%			
<b>Proposition 59</b>	<b>Votes</b>	<b>Percent</b>			
<b>Corporate Political Spending Advisory Question</b>					
Yes	6,845,943	53.2%			
No	6,027,084	46.8%			



**Certificate of the Secretary of State**

I, ALEX PADILLA, Secretary of State of the State of California, hereby certify:

That the following is a full, true, and correct statement of the result of the official canvass of the returns of the November 8, 2016, General Election.



**IN WITNESS WHEREOF, I**  
hereunto set my hand and  
affix the Great Seal of  
California, at Sacramento,  
this 16<sup>th</sup> day of December, 2016.

A handwritten signature in cursive script, appearing to read "Alex Padilla".

**ALEX PADILLA**  
Secretary of State