



## JUDICIAL COUNCIL OF CALIFORNIA

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June 14, 2018

Hon. Anthony Portantino, Chair  
Senate Appropriations Committee  
State Capitol, Room 3086  
Sacramento, California 95814

Subject: AB 1793 (Bonta), as amended May 25, 2018 – Fiscal Impact Statement

Dear Senator Portantino:

AB 1793, as amended May 25, 2018, would require the Department of Justice (DOJ), by July 1, 2019, to identify past cannabis conviction cases that are potentially eligible for recall or dismissal of sentence, sealing, or re-designation pursuant to current law. The bill would require the department to notify prosecutors of cases in their jurisdiction that are eligible for sentence modifications. Prosecutors would be required to review all identified cases to determine if they will object to sentence modifications in these cases or allow them to proceed. Once prosecutors complete their review of the case, they are required to notify the courts and public defenders of cases where they are challenging the sentence modification by July 1, 2020. Additionally, prosecutors are required to notify the courts of the cases where they will not be challenging sentence modifications. Finally, the bill requires courts to automatically modify sentences identified cases if there is no challenge by July 1, 2020.

### *Fiscal Impacts*

The DOJ estimates there are approximately 220,000 cannabis cases statewide that are eligible for sentence modifications as proposed by this bill. Based on DOJ's indication that there are 220,000 eligible cannabis cases, we estimate court workload costs are between \$5.2 million and

\$25.0 million to comply with this bill’s provisions.<sup>1</sup> We surveyed a sample of trial courts to develop a workload time range for cannabis sentence modification cases. The courts noted that several factors influence their workload estimates, such as capabilities of their case management systems, court staffing levels and potential objections from the prosecution. We note that cases where prosecutor’s object to sentence modifications carry the highest workload costs as these require additional judicial review.<sup>2</sup> However, it is difficult to produce an accurate estimate of the frequency with which prosecutor’s will object to sentence modifications given the number of variables which could influence their decision. Based on these uncertainties, we made a conservative assumption that prosecutors would not object to sentence modifications in 95% of the 220,000 cannabis cases and utilized workload estimates provided by the courts to develop a range of costs. Table 1 provides a summary of our calculations of the range of workload costs related to sentence modifications in cannabis cases.

**Table 1: Cannabis Sentence Modification Case Workload Cost Estimate**

Sentence Modification Case Type	Cases	Workload Cost Range	
		Low	High
Unchallenged Review <i>95% of DOJ Cases</i>	209,000	\$4,389,000	\$22,363,000
Prosecution Objects <i>5% of DOJ Cases</i>	11,000	825,000	2,662,000
<b>Totals</b>	<b>220,000</b>	<b>\$5,214,000</b>	<b>\$25,025,000</b>

<sup>1</sup> The following table summarizes the results of a sample of courts that were surveyed to develop an estimate of the range of workload time and costs for this bill:

Sentence Modification Case Type	Personnel	Range (mins.)		Cost Per Min.	Total Workload Cost	
		Low	High		Low	High
Unchallenged Review	Staff	3	15	\$2.7	\$8	\$40
	Judge	3	15	4.5	14	68
<i>Subtotal</i>					\$21	\$107
Prosecution Objects	Staff	3	15	2.7	8	40
	Judge	15	45	4.5	68	203
<i>Subtotal</i>					\$75	\$242

<sup>2</sup> Health and Safety Code section 11361.8(g) indicates that hearings for the resentencing of cannabis convictions are required when requested by the petitioner. Courts took this section into consideration when they developed their workload estimates for unchallenged review cases.

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We note the timeline provided by the bill would make it difficult for courts to process the estimated 220,000 cases. For example, cases eligible for resentencing under Proposition 47, which had similar workload impacts for the courts, were originally provided a three year processing window. However, this window was subsequently extended by five years pursuant to AB 2765 (2016) to allow the public more time to file petitions and provide prosecutors and the courts with additional time to process these requests for sentence modifications.

Please contact Mark Neuburger if you have questions about the information contained in this letter at [mark.neuburger@jud.ca.gov](mailto:mark.neuburger@jud.ca.gov) or 916-323-3121.

Sincerely,

*Mailed June 14, 2018*

Cory T. Jasperson  
Director, Governmental Affairs

CTJ/MN/jh

cc: Members, Senate Appropriations Committee  
Hon. Rob Bonta, Member of the Assembly  
Mr. Eric Csizmar, Consultant, Senate Republican Office of Policy  
Mr. Daniel Seeman, Deputy Legislative Secretary, Office of the Governor  
Ms. Rebecca Kirk, Budget Analyst, Department of Finance  
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