



# CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION

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January 10, 2011

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W. SCOTT THORPE

The Honorable Leland Yee, Ph. D.  
California State Senate  
State Capitol  
Sacramento, CA 95814

### Re: SB 9 – Oppose

Dear Senator Yee:

On behalf of the California District Attorneys Association (CDAА), I regret to inform you that we are opposed to SB 9. This bill, like its predecessor, SB 399 of last session, would allow a defendant who was under the age of 18 at the time of an offense that resulted in a sentence of life without the possibility of parole (LWOP), to petition the sentencing court, after he or she had served at least 10 years of the sentence, to re-sentence him or her to a lesser term.

To be clear, the universe of inmates to which this bill would apply is comprised almost exclusively of persons who were convicted of first degree murder with one or more special circumstances and who were 16 or 17 years old at the time of the offense. Existing law properly recognizes the fact that there are juveniles who commit special circumstances murder and that LWOP is an appropriate sentence in many, if not most, of those cases. At the same time, the statute acknowledges the possibility of a rare exception and grants judicial discretion to impose a lesser sentence of 25 years to life. We agree with the propriety of existing law in this regard and therefore oppose any effort, whether overt or veiled, to substantially weaken the statutory response to special circumstances murder committed by specified juveniles.

In addition to our general concern with the intent of this bill, we take issue with the specific sentence recall process contained therein. Under one scenario contemplated by the measure, a petitioner found by the court to have been under the age of 18 at the time of the offense that resulted in his or her LWOP sentence could qualify for a resentencing hearing solely on the basis that the petitioner has performed acts that tend to indicate rehabilitation, or the potential for rehabilitation, or has shown evidence of remorse. Creating the potential for an LWOP sentence to be reduced by setting such a low standard for eligibility is an affront to justice and disrespectful of the victims of these crimes.

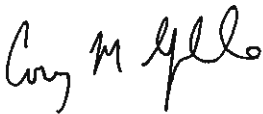
Proponents are already pointing to Governor Schwarzenegger's recent commutation of Sara Kruzan's LWOP sentence for first degree murder during

a robbery to 25 years to life as evidence that SB 9 should be enacted. We would argue however, that this grant of clemency only hurts the supporters' case. The current process, which generally affords criminal defendants the right to appeal, file a writ of habeas corpus, and ultimately seek executive clemency, and the Governor's action relative to the latter rebut the proponents' assertion that the system requires alteration.

The bottom line is that this bill would set the stage for the possible parole of hardcore offenders who have committed grievous murders, and that is simply unacceptable.

Thank you for your consideration of our concerns. If you would like to discuss these issues further, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Cory M. Salzillo". The signature is fluid and cursive, with the first name "Cory" being the most prominent.

Cory M. Salzillo  
Director of Legislation

cc: The Honorable Edmund G. Brown, Jr.  
Members of the California State Legislature  
Alison Anderson, Senate Committee on Public Safety  
Eric Csizmar, Senate Republican Office of Policy  
Kimberly Horiuchi, Assembly Committee on Public Safety  
Gary Olson, Assembly Republican Office of Policy