

13 JUL 18 PM 12:17 BILL ANALYSIS



Date: July 18, 2013

Bill Number: SB 649

Bill Author: CA Senator Mark Leno

DEPARTMENT INFORMATION

Contact: Bruce Stoffmacher, District 4, 510-238-7041
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RECOMMENDED POSITION: SUPPORT

Summary of the Bill:

SB 649, known as the **Local Control in Sentencing Act**, will allow for prosecutorial and judicial discretion to charge possession of personal use amounts of illicit drugs such as opiates, opium, opium derivatives, mescaline, peyote, tetrahydrocannabinols, and cocaine base for personal use, as a felony or a misdemeanor as the case warrants, leaving an important level of sentencing authority in the hands of the sentencing judge. SB 649 would not make any changes to the law related to illegal substance crimes involving selling, manufacturing or possessing drugs for sale. SB 649 would allow local government to more effectively manage scarce crime control resources, and reduce at times unnecessary and costly incarceration.

Positive Factors for Oakland

SB 649 is likely to reduce the overcrowding in county jails and save millions of dollars for local governments, which ultimately would support more effective crime fighting efforts within the City of Oakland, County of Alameda, and throughout the State of California. A body of data shows that low level personal drug use offenders, sent to jail or prison for felony possession, are ultimately released years later with little opportunity for achieving self-sufficiency or positive life fulfillment due significantly to their felony records. Furthermore, drug use felony convictions do not provide data-driven solutions for helping drug use felons avoid drug use once released from multi-year incarcerations. Strong research shows that in many cases illegal drug use can be lowered by more effective use of the county probation system for individuals found guilty of illegal personal drug use. Oakland would benefit significantly if more Oakland residents, convicted of illegal drug use, were effectively monitored by the probation department and given a clear choice that they can avoid life-damaging felony convictions if they avoid such use. Effective use of the probation system must also involve consistent use of drug testing by the county probation department.

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Negative Factors for Oakland

Some law enforcement professionals argue that allowing for lesser sentences of drug possession crimes will further enable drug addictions. Drug addictions cause direct and indirect harm to individual drug users as well as to society.

Arguments in Opposition:

In addition to the argument that SB 649 could lead to greater illicit drug use, District Attorneys and other county-level law enforcement organizations are concerned that a greater number of offenders being sentenced to county jails will cause further stress to the county jails, already burdened with managing the State's realignment process.

Known Support

Friends Committee on Legislation
Californians for Safety and Justice
California Public Defenders Association
National Association for the Advancement of Colored People
Drug Policy Alliance
American Civil Liberties Union

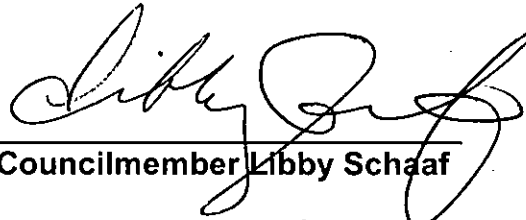
Known Opposition


California District Attorneys Association
California Narcotics Officers' Association
California Police Chiefs Association

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

- Critical (top priority for City lobbyist, city position required ASAP)
- Very Important (priority for City lobbyist, city position necessary)
- Somewhat Important (City position desirable if time and resources are available)
- Minimal or None (do not review with City Council, position not required)

Respectfully Submitted,


Councilmember Libby SchAAF


Prepared by Bruce Stoffmacher,
Policy Analyst

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City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER LIBBY SCHAAF

RESOLUTION IN SUPPORT OF SENATE BILL 649 (POSSESSION OF CONTROLLED SUBSTANCES: PENALTIES, LENO), ALSO KNOWN AS THE LOCAL CONTROL IN SENTENCING ACT, WHICH WOULD MAKE THE UNLAWFUL POSSESSION OF CERTAIN CONTROLLED SUBSTANCES PUNISHABLE AS EITHER A FELONY PUNISHABLE IN COUNTY JAIL OR AS A MISDEMEANOR PUNISHABLE BY COUNTY JAIL FOR NOT MORE THAN ONE YEAR.

WHEREAS, illegal drugs and drug use continue to be a significant problem that causes harm both to individual drug users as well as society at-large; and

WHEREAS, existing law mandates that the unlawful possession of certain controlled substances, including, among others, opiates, opium, opium derivatives, mescaline, peyote, tetrahydrocannabinols, and cocaine base, must be considered a felony punishable by imprisonment in a county jail for 16 months, or 2 or 3 years; and

WHEREAS, the vast majority of police organizations, District Attorneys, policy leaders, and crime experts agree that felony charges provide a necessary punishment for many types of serious drug crimes; and

WHEREAS, a growing body of police organizations, policy leaders, and crime experts also agree that a felony conviction can equal an overly severe punishment for certain illegal drug possession crimes; and

WHEREAS, SB 649, known as the Local Control in Sentencing Act, will allow for prosecutorial and judicial discretion to charge possession of personal use amounts of illicit drugs such as opiates, opium, opium derivatives, mescaline, peyote, tetrahydrocannabinols, and cocaine base for personal use, as a felony or a misdemeanor as the case warrants, leaving an important level of sentencing authority in the hands of the sentencing judge; and

WHEREAS, SB 649 would not make any changes to the law related to illegal substance crimes involving selling, manufacturing or possessing drugs for sale; and

WHEREAS, creating an option to charge low-level drug possession as a misdemeanor rather than a felony will allow local government to more effectively manage scarce crime control resources, and reduce at times unnecessary and costly incarceration; and

WHEREAS, less resources spent incarcerating non-violent personal-use illegal drug users will generate savings to focus more resources on probation, drug treatment, and mental health services, as well as resources for law enforcement on more serious offenders; and

WHEREAS, significant crime policy research shows that effective use of the probation system can create crime reductions similar to if not greater than incarceration for first and second-time non-violent illegal drug users; and

WHEREAS, felony convictions for personal drug use create significant lifelong negative effects such as incredible difficulty gaining legitimate employment, educational assistance, or public aid; and

WHEREAS, the negative effects of a felony conviction actually may increase the likelihood that non-violent drug users will be more likely to re-offend due to limited licit opportunities; and

WHEREAS, according to state data there are approximately 10,000 convictions for felony drug possession for personal use each year in California; and

WHEREAS, the State of California has been sued by the Federal Government for significant prison overcrowding such that now California prison officials must find new ways to reduce prison overcrowding; and

WHEREAS, SB 649 promises to alleviate overcrowding in county jails, ease pressure on California's court system and result in millions of dollars in annual savings for local governments; now, therefore be it

RESOLVED: That the City of Oakland supports Senate Bill 649 (Possession of Controlled Substances: Penalties), Leno), also known as the Local Control in Sentencing Act, which would make the unlawful possession of certain controlled substances punishable as either a felony in county jail or as a misdemeanor by imprisonment in a county jail for not more than one year.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

**AYES – BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, AND
PRESIDENT KERNIGHAN**

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California