

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: August 12, 2014

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Gerry F. Miller *Gerry F. Miller for*
Chief Legislative Analyst

Council File No: 14-0002-S84
Assignment No: 14-07-0524

SUBJECT: Resolution (Parks - Englander) to oppose SB 210

CLA RECOMMENDATION: Adopt the Resolution (Parks - Englander) to include in the City's 2013 – 2014 State Legislative Program OPPOSITION to SB 210 (Hancock), which would revise the criteria for determining eligibility for pre-trial release from custody.

SUMMARY

On July 2, 2014, a Resolution (Parks - Englander) was introduced to oppose SB 210 (Hancock), which would revise the criteria used to determine eligibility for pre-trial release from custody. The Resolution states that SB 210 is predicated on the availability of evidence-based pre-trial risk assessment reports, which will be used to determine which defendants are good candidates for release on their own recognizance (OR). The majority of California counties, however, do not have the resources available to undertake these assessments. The Resolution further states that because of this lack of funding, the courts will be encouraged to release felony defendants on OR, creating a public safety risk.

The Resolution states that there are too many uncertainties and too little preparation contained in SB 210 to ensure that such an OR program could be implemented effectively. The Resolution, therefore, seeks an official position of the City of Los Angeles to oppose SB 210, which would revise the criteria for determining eligibility for pre-trial release from custody.

BACKGROUND

Under current law, a person can be released on bail prior to their trial for a felony, unless they are accused of specific crimes, or their release would pose a threat to the safety of another person or the public. Current law also sets forth the conditions for a defendant's release on their own recognizance (OR), where a defendant does not pay bail, but is released on the condition that they appear for all court dates.

SB 210 would make changes to the criteria for pre-trial release from custody, as well as the criteria for setting bail. Under SB 210, far more defendants would be eligible for pre-trial release on OR. Under the bill, a court would be required to consider a defendant's ties to the community, current participation in education or vocational training, and any mental health or drug dependency issues. SB 210 would also require that courts consider the circumstances and seriousness of the crime that the defendant is accused of committing. SB 210 would also authorize local governments to conduct pre-trial investigation reports, which would determine a defendant's potential threat to public

safety and the probability of the defendant making future court appearances. SB 210 would require that these reports include the result of an evidence-based risk assessment, such as those utilized by Santa Cruz County and Santa Clara County.

SB 210 is supported by a number of organizations, including the American Civil Liberties Union, the California Public Defenders Association, the City of Richmond Police Department, the Coalition for Humane Immigrant Rights of Los Angeles, and the Los Angeles Regional Reentry Partnership, among others. Supporters argue that SB 210 would create a more effective way to manage pre-trial populations, and reduce costs incurred by counties, who are responsible for housing pre-trial inmates. Currently, pretrial defendants make up approximately 60 percent of jail inmates statewide. Supporters argue that most of these inmates are poor, and cannot afford to meet bail requirements that more well-off defendants can. Further, supporters argue that California's current pre-trial release system is arbitrary, and that most defendants are not released on OR, even when the crime they are accused of is not serious or violent. Supporters believe that an evidence based assessment would result in more individuals being released on OR, reducing jail populations and allowing defendants to continue their lives while awaiting trial, which will reduce recidivism rates.

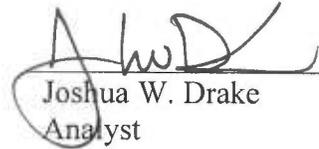
Opponents to SB 210, including many law enforcement groups, have raised numerous concerns about the bill's provisions. SB 210's OR provisions are strongly based on evidence based pre-trial reports, but the bill does not include any funding for counties to conduct such reports. SB 210 gives new responsibilities to already overworked local governments, without appropriate funding. Law enforcement groups state that it is unclear if California counties have the ability or funding to undertake this new responsibility, and that this legislation may result in defendants that should not be released on OR, being released prior to their trial into the community. Another major concern is that under SB 210, many defendants are treated the same regardless of the crimes they may have committed. Many law enforcement agencies are also concerned that the default treatment included in SB 210 does not take into account the need for the protection of victims and the public, and that this legislation could pose a threat to public safety. Our office recommends opposition to SB 210 due to law enforcement's concerns.

DEPARTMENTS NOTIFIED

Police Department
City Attorney's Office

BILL STATUS

02/11/2013	Bill introduced
01/21/2014	Placed on Appropriations Suspense File
01/23/2014	From Committee: passed as amended
01/30/2014	Passed in the Senate (25 - 9), referred to the Assembly
04/24/2014	Referred to the Assembly Committee on Public Safety
06/18/2014	Passed in Committee (5 - 2)
06/19/2014	Read second time. Ordered to third reading



Joshua W. Drake
Analyst

GFM:MF:jwd

Attachment: Resolution (Parks - Englander)

14-0002-584

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state, or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, SB 210 seeks to revise the factors in setting, reducing, or denying bail that a judge or magistrate would be required to consider to, among other things, require the judge or magistrate to consider the history and characteristics of the defendant, and to consider the nature and circumstances of the offense, and would also require a judge or magistrate to consider those factors when determining conditions for pretrial release; and

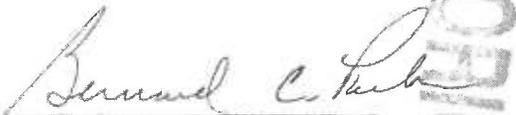
WHEREAS, SB 210 is predicated on the availability of evidence-based pretrial risk assessment reports which will determine which defendants are good candidates for own recognizance (OR) release, but only Santa Cruz County is set up to issue these reports and it is not clear when the other 57 counties will have the funds necessary to do these assessments, and the courts will therefore be encouraged to release felony defendants on OR without the reports they need to make an informed decision and public safety will suffer; and

WHEREAS, electronic monitoring can be a useful tool in the right circumstances, such as in the post-conviction context where bail is not available, but a 2011 study found that electronic monitoring had a 70% rate of false alerts causing significant increases in officer workloads, costs and dangers to public safety; and

WHEREAS, there are too many uncertainties and too little preparation to ensure that such an OR program can be implemented effectively.

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013-2014 State Legislative Program OPPOSE SB 210 which would revise the criteria for determining eligibility for pretrial release from custody.

PRESENTED BY:


Bernard Parks
Councilmember, 8th District

SECONDED BY:



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