

Governor Signs Bill Changing

1. California's Sentencing Laws

SB 40 Passed in Response to U.S. Supreme Court Ruling

Overturing State's Determinate Sentencing Laws

Sacramento – Governor Arnold Schwarzenegger has signed urgency legislation that changes California's sentencing laws in response to the U.S. Supreme Court's ruling in January 2007 that declared the state's determinate sentencing laws unconstitutional. (*Cunningham v. California*, 549 U. S. ____ (2007)).

Senate Bill 40, authored by Senator Gloria Romero (D - Los Angeles), was signed by the Governor and became effective on Friday, March 30.

As an urgency measure, the bill took effect immediately upon signing by the Governor. The Administrative Office of the Courts notified state courts shortly after the bill was signed.

SB 40 provides that when a felony is punishable by a lower, middle, or upper term of incarceration in state prison, the choice of the appropriate term would "rest within the sound discretion of the court." The bill requires the court to state the reasons for its sentence choice on the record at the time of sentencing.

The bill has a two-year sunset, meaning that its provisions will be repealed on January 1, 2009, unless a later enacted statute deletes or extends that date.

SB 40 also requires the Department of Corrections and Rehabilitation, beginning July 1, 2007, to post on its Internet Web site biannual updates of the number of felons admitted to state prison with at least one upper term sentence. The bill requires the Judicial Council to report to the Legislature on or before January 1, 2008, on the implementation of the provisions of the bill, including but not limited to, the development of revised rules of court and any relevant information concerning implementation consequences relating to the effect of the bill.

The text of the bill is available at this link:

http://leginfo.ca.gov/pub/07-08/bill/sen/sb_0001-0050/sb_40_bill_20070329_enrolled.pdf

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