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WE ARE CURRENTLY SENDING THIS PROPOSITION 57 INFORMATION TO ALL PRISONERS TO WHOM WE SEND ANYTHING ELSE.

Please write us separately if you want information about the new laws about marijuana or the death penalty.

PROPOSITION 57 INFORMATION

(Updated December 1, 2016)

Proposition 57 was passed by a majority of the voters on November 8, 2016. Among other things, Proposition 57 added new Article I, section 32 to the California Constitution. That new law is copied on the last page of this handout. We hope the following information helps you. We cannot provide advice or information regarding your individual situation, or any other information at the present time.

As explained below, we believe it will take several months before any changes made by Proposition 57 actually begin. We have no other information at the present time about what prisoners will be affected or how or when the new law will be carried out.

Proposition 57 changes the California Constitution and other laws to make three important changes:

1. Requires early parole consideration for some CDCR prisoners with nonviolent convictions;
2. Gives CDCR authority to award time credits for good behavior and approved rehabilitative or education achievements; and
3. Gives only judges the power to decide whether juveniles charged with a crime go to adult court.

With regard to the changes regarding early parole consideration and new time credits, Proposition 57 requires the California Department of Corrections and Rehabilitation (CDCR) to enact regulations (Title 15 rules) to make the changes. CDCR has said it will use the regular process to make the new Title 15 rules. As explained below, it takes many months to make new Title 15 rules. **For this reason, we believe it will be several months before CDCR starts the new early parole consideration process, or awards any new time credits.**

Please see the other side of this page, and the attached page, for more information about the changes made by Proposition 57.

Changes made by Proposition 57

1. Requires early parole consideration for some people in state prison with nonviolent convictions.

Proposition 57 adds a new section (Article 1, section 32) to the state constitution that makes state prisoners eligible for parole consideration if they (1) are convicted of a “nonviolent” felony offense, and (2) have served the complete full term for their primary offense. The full term for the primary offense means the longest base term imposed by the court for any offense, regardless of any enhancement, consecutive sentence, or alternative sentence.

Proposition 57 requires CDCR to adopt regulations (new Title 15 rules) to establish the new early parole consideration process. The CDCR has stated that it “will draft and adopt regulations to implement [these] provisions after a period of public review and comment.” This process usually takes several months. CDCR will first publish the text of new proposed rules, and post the proposed rules post in the prisons (check with your law library). The public and prisoners then get several weeks to send CDCR written comments about the proposed rules. CDCR next considers and makes a written response to the comments, and can then issue revised proposed rules which can again be commented on by the public and prisoners. The last step is for CDCR to file the final new Title 15 rules with the Secretary of State. This entire process takes several months.

There are many unknowns about when and how Proposition 57’s parole provision will be put into effect. Proposition 57 does not state any further details about who is eligible for parole consideration, what procedures are to be used, or what criteria will determine who gets paroled; there may be legal disputes about these matters. Criminal justice advocates are likely to argue that “nonviolent” offenses should at least include all offenses not listed as “violent” felonies in Penal Code § 667.5(c), and that second and third strikers can be considered for early parole because the Three Strikes Law is an “alternative sentence.” Also, it is not known when the CDCR will issue or adopt new parole regulations, start screening prisoners for parole eligibility, or start holding parole hearings. It will be months before the required new rules are completed, and there may be legal disputes about how the provision is interpreted and applied.

[Please see next page for more information about Proposition 57]

Changes made by Proposition 57 (continued)

2. Gives CDCR the authority to award time credits for good behavior and completing rehabilitation or education programs.

Proposition 57 adds a new section (Article 1, section 32) to the state constitution that states that CDCR "shall have authority to award credits earned for good behavior and approved rehabilitative or educational achievements," "shall adopt regulations in furtherance of these provisions," and "shall certify that these regulations protect and enhance public safety." The CDCR has stated that it "will draft and adopt regulations to implement [these] provisions after a period of public review and comment."

Proposition 57 does not state any further details or require CDCR to provide additional credits to any particular prisoners. It is not known when CDCR will issue or adopt regulations for additional credits, which prisoners would be eligible for additional credits, or the start date for any additional credits. As explained above, we believe it will take months before the process for making new rules is completed, and there may be legal disputes about how the provision is interpreted and applied.

3. Requires that juveniles age 14 through 17 who commit serious crimes be prosecuted in juvenile court unless the District Attorney files a motion to transfer the case to adult court, and the judge in the case orders transfer after considering specified criteria.

Proposition 57 eliminates the law that gave District Attorneys the power to decide if a juvenile went to adult court for serious crimes. The new law requires that juveniles be prosecuted in juvenile court, unless the District Attorney files a motion to transfer the case to adult court and the judge, after considering specified criteria, so orders (only the judge has the authority to order transfer). See Welfare and Institutions Code sections 602 and 707. Proposition 57 does not say anything about retroactive application to juveniles who are already facing charges in adult court, have been convicted in adult court, or who are currently serving time in prison for offenses they committed as juveniles. Juvenile advocates may argue that there should be retroactive application to at least some of these groups. There may be legal disputes about how the provision is interpreted and applied.

Please see the other side of the page for the text of new Article I, section 32 of the California Constitution, which Proposition 57 added to the Constitution. As explained above, Article I, section 32 requires early parole consideration for some prisoners with non-violent convictions, gives CDCR authority to award time credits for good behavior and approved rehabilitative and/or educational achievements, and requires CDCR to enact Title 15 regulations regarding early parole consideration and time credits.

Proposition 57 added Article I, section 32 to the California Constitution:

California Constitution, Article I, section 32

(a) The following provisions are hereby enacted to enhance public safety, improve rehabilitation, and avoid the release of prisoners by federal court order, notwithstanding anything in this article or any other provision of law:

(1) Parole Consideration: Any person convicted of a nonviolent felony offense and sentenced to state prison shall be eligible for parole consideration after completing the full term for his or her primary offense.

(A) For purposes of this section only, the full term for the primary offense means the longest term of imprisonment imposed by the court for any offense, excluding the imposition of an enhancement, consecutive sentence, or alternative sentence.

(2) Credit Earning: The Department of Corrections and Rehabilitation shall have authority to award credits earned for good behavior and approved rehabilitative or educational achievements.

(b) The Department of Corrections and Rehabilitation shall adopt regulations in furtherance of these provisions, and the Secretary of the Department of Corrections and Rehabilitation shall certify that these regulations protect and enhance public safety.