



CONSENT CALENDAR  
September 15, 2020

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Rigel Robinson and Ben Bartlett  
Subject: Resolution: Opposition to Proposition 20

### RECOMMENDATION

Adopt a Resolution opposing Proposition 20 on the November 2020 ballot, which would authorize felony charges for repeat or organized petty theft, require tougher penalties for noncriminal parole violations, expand DNA collection for people convicted of certain nonviolent crimes, and exclude those who have been convicted of domestic violence and certain nonviolent crimes from early parole consideration. Copies of the resolution are to be sent to Assemblymember Buffy Wicks and State Senator Nancy Skinner.

### BACKGROUND

In recent years, California voters and state elected officials have repeatedly chosen restorative justice and rehabilitation over “tough on crime” policies. In 2011, Governor Brown signed AB 109, the Public Safety Realignment Act, which shifted responsibility for certain offenders from the state prison system to the county level. This allowed judges to sentence offenders to county jail time, mandatory supervision, community service, substance abuse treatment, and other alternatives instead of prison time.<sup>1</sup>

In 2014, California voters approved Proposition 47, which retroactively reduced the charge for nonserious, nonviolent crimes from a felony to a misdemeanor for defendants without a history of certain convictions.<sup>2</sup> In 2016, voters passed Proposition 57, which created an incentive system for rehabilitation and allowed for early parole consideration of certain nonviolent offenders.<sup>3</sup>

These criminal justice reforms reduced recidivism rates and shifted hundreds of millions of dollars from failed prisons back to local communities, funding programs for trauma recovery, mental health, substance abuse, and at-risk students.<sup>4</sup> Proposition 47 also paved the way for California to reduce its prison population and end contracts with private, out-of-state prisons.<sup>5</sup>

<sup>1</sup> [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201120120AB109](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB109)

<sup>2</sup> <https://aizmanlaw.com/proposition-47/#:~:text=Proposition%2047%20was%20passed%20into,offenses%20or%20certain%20gun%20crimes>

<sup>3</sup> <https://www.cdcr.ca.gov/proposition57/>

<sup>4</sup> [https://www.ppic.org/wp-content/uploads/r\\_0618mbr.pdf](https://www.ppic.org/wp-content/uploads/r_0618mbr.pdf)

<sup>5</sup> <https://www.kqed.org/news/11796149/voter-approved-criminal-justice-reform-expected-to-save-state-over-122-million>

Proposition 20 would repeal key aspects of each of these three reforms.<sup>6</sup>

- It would make certain offenders ineligible for early parole, undermining the rehabilitation progress made by Proposition 57 and preventing incarcerated people from adequately preparing for their release back into the community.
- It would reclassify low-level crimes such as petty theft as felonies, reversing Proposition 47. This would result in an explosion in our prison population and a severe loss of funding for public safety community services.
- It would return people to prison for noncriminal violations of parole. The passage of AB 109 led probation and parole departments to utilize graduated sanctions for violations, which allowed for accountability without sending people back to prison. By implementing a tougher penalty system, Proposition 20 would needlessly increase surveillance and imprisonment.
- It would require people who were charged with misdemeanors instead of felonies as a result of Proposition 47 to give their DNA to state and federal databases.

This initiative aims to return California to the era of its “tough on crime” policies, which have no proven effect on crime rates. Proposition 20 would disproportionately incarcerate Black and brown Californians, increase prison spending at the expense of community programs, and increase recidivism by obstructing access to rehabilitation.

#### FINANCIAL IMPLICATIONS

According to the California Legislative Analyst’s Office and Director of Finance, Proposition 20 would create significant costs at a time when state and local governments face severe budget deficits due to the COVID-19 pandemic and economic recession. The fiscal impact statement reads as follows:

- “Increased state and local correctional costs likely in the tens of millions of dollars annually, primarily related to increases in penalties for certain theft-related crimes and the changes to the nonviolent offender release consideration process.
- Increased state and local court-related costs of around a few million dollars annually related to processing probation revocations and additional felony theft filings.
- Increased state and local law enforcement costs not likely to exceed a couple million dollars annually related to collecting and processing DNA samples from additional offenders.”

#### ENVIRONMENTAL SUSTAINABILITY

None.

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

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<sup>6</sup> <https://www.sos.ca.gov/elections/ballot-measures/qualified-ballot-measures/>

**Attachments:**

1: Resolution

RESOLUTION NO. ##,###-N.S.

OPPOSITION TO PROPOSITION 20 ON THE NOVEMBER 2020 BALLOT

WHEREAS, Proposition 20 would authorize felony charges for repeat or organized petty theft, require tougher penalties for noncriminal parole violations, expand DNA collection for people convicted of certain nonviolent crimes, and exclude those who have been convicted of domestic violence and certain nonviolent crimes from early parole consideration; and

WHEREAS, this initiative would repeal key aspects of critical criminal justice reforms approved by California voters and the Legislature, namely the Public Safety Realignment Act (2011), Proposition 47 (2014), and Proposition 57 (2016), which have decreased incarceration and recidivism rates, prison spending, and reliance on private prison contracts; and

WHEREAS, this initiative would create costs in the tens of millions of dollars for law enforcement, corrections, and court systems at a time when local and state governments are reckoning with the failure of these systems to protect Black and brown people, in addition to facing severe budget deficits due to the COVID-19 pandemic; and

WHEREAS, “tough on crime” policies have been proven over and over again to be ineffective in reducing crime rates, and focusing on rehabilitation and education while diverting funding from mass incarceration towards mental health, trauma recovery, and addiction services better meets community needs; and

WHEREAS, in California, Black men are incarcerated at ten times the rate of white men and Black women at five times the rate of white women, and any additional investments in mass incarceration and the prison-industrial complex would disproportionately impact Black communities and other communities of color.

THEREFORE BE IT RESOLVED that the Council of the City of Berkeley opposes Proposition 20 on the November 2020 ballot.

BE IT FURTHER RESOLVED that copies of this Resolution shall be sent to Assemblymember Buffy Wicks and State Senator Nancy Skinner.