

Date of Hearing: April 8, 2025  
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 1279 (Sharp-Collins) – As Introduced February 21, 2025

**Updated**

**As Proposed to be Amended in Committee**

**SUMMARY:** Prohibits a prior juvenile adjudication from constituting a prior “strike” for purposes of the Three Strikes Law. **Specifically**, this bill:

- 1) States that a prior juvenile adjudication shall not constitute a prior “serious” or “violent” felony for purposes of the Three Strikes alternative sentencing scheme.
- 2) Authorizes a person who was convicted of a felony who had their sentence enhanced because of a prior juvenile adjudication to file a petition with the court that sentenced the petitioner to have their prior conviction vacated and to be resentenced on any remaining counts when all of the following apply:
  - a) A complaint, information, or indictment was filed against the petitioner that alleged the petitioner had suffered a prior “serious” or “violent felony” or adjudication for a minor 16 years of age or older for qualifying offenses;
  - b) The offense underlying the prior juvenile adjudication occurred when the petitioner was less than 18 years of age;
  - c) The fact of the prior adjudication alleged was either admitted or found true by a judge or jury after a conviction on the underlying charge or charges in the complaint, information, or indictment; and,
  - d) The petitioner’s sentence was actually enhanced due to this prior adjudication being found true.
- 3) Requires the petition to be filed with the sentencing court and served by the petitioner on the district attorney, or on the agency that prosecuted the petitioner, and on the attorney who represented the petitioner in the trial court, or on the public defender of the county where the petitioner was convicted.
- 4) States that if the judge that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition.
- 5) Requires the petition to include all of the following and states that if any required information is missing and cannot be readily ascertained by the court, the court may deny the petition without prejudice to the filing of another petition:

- a) A declaration by the petitioner that they are eligible for relief under this section, based on all of the specified requirements;
  - b) The superior court case number and year of the petitioner's conviction; and,
  - c) Whether the petitioner requests the appointment of counsel.
- 6) Provides that the court shall review the petition and determine if the petitioner has made a prima facie showing that the petitioner is eligible for relief and if the court determines a prima facie case has been made, the court shall appoint counsel if requested.
  - 7) States that if the court determines that a prima facie case has not been made, and the petitioner has requested counsel, the court may, in its discretion, appoint counsel for the purpose of investigating the petitioner's eligibility for relief pursuant to this section and to represent the petitioner in attendant proceedings.
  - 8) States that if the court determines that the petitioner has made a prima facie showing that they are eligible for relief, the court shall issue an order to show cause why relief should not be granted and give the prosecutor 60 days of service of the petition to file and serve a response and the petitioner may file and serve a reply within 30 days after the prosecutor response is served.
  - 9) Requires the court, within 60 days of the order to show cause, to hold a hearing to determine whether to recall the sentence and resentence the petitioner on any remaining counts and enhancements provided that the new sentence is not greater than the initial sentence.
  - 10) States that at the hearing to determine whether the petitioner is entitled to relief, the burden of proof is on the prosecution to prove, beyond a reasonable doubt that the petitioner is ineligible for resentencing. If the prosecution fails to sustain its burden of proof, the prior sentence shall be recalled and the petitioner shall be resentenced.
  - 11) Provides that the prosecution and petitioner may rely only on the record of conviction in arguing the petitioner's eligibility for resentencing, but may offer new or additional evidence relating to the determination of a new sentence.
  - 12) States that if the court determines that the petitioner is eligible for relief and the prosecutor does not object, it may grant relief without a hearing on the order to show cause and instead proceed directly to a resentencing hearing.
  - 13) Authorizes any deadlines above to be extended upon a showing of good cause.
  - 14) Clarifies that the provisions of this bill do not diminish or abrogate any rights or remedies otherwise available to the petitioner.
  - 15) States that a person who is resentenced shall be given credit for time served, and the judge may order the petitioner to be subject to parole supervision for up to three years following the completion of the sentence.

- 16) Contains Legislative findings and declarations about the fundamental difference of juveniles from adults in their decisionmaking, culpability, and capacity for rehabilitation.

**EXISTING LAW:**

- 1) Defines a "strike" prior as "serious" felonies and "violent" felonies, as specified, including specified juvenile adjudications that occurred when the defendant was 16 years of age or older. (Pen. Code, §§ 667, subd. (d) and 1170.12, subd. (b).)
- 2) Provides that if a defendant is convicted of a felony offense and it is pled and proved that the defendant has been convicted of one prior "serious" or "violent" offense as defined, the term of imprisonment is twice the term otherwise imposed for the current offense. (Pen. Code, §§ 667, subd. (e)(1) and 1170.12, subd. (c)(1).)
- 3) Provides that a defendant, who is convicted of a "serious" or "violent" felony offense or a specified sex offense, and it is pled and proved that the defendant has been convicted of two or more prior violent or serious offenses, the term is life in prison with a minimum term of 25 years. (Pen. Code, §§ 667, subds. (a) & (d)(2)(i); 1170.12, subd. (c)(2)(A).)
- 4) Requires a defendant affected by a prior "strike" to be committed to state prison, and disallows diversion or probation. (Pen. Code, §§ 667, subd. (c) and 1170.12, subd. (a).)
- 5) Requires consecutive rather than concurrent sentencing for multiple offenses committed by a defendant affected by a prior "strike," unless the current felony convictions arise out of the same set of operative facts. (Pen. Code, §§ 667, subd. (c)(6) and 1170.12, subd. (a)(6).)
- 6) States that a prior juvenile adjudication constitutes a "strike" for Three Strikes sentencing if it meets all of the following:
  - a) The juvenile was 16 years of age or older at the time the juvenile committed the prior offense;
  - b) The prior offense is listed in subdivision (b) of Section 707 of the Welfare and Institutions Code or described as a "serious" or "violent" felony;
  - c) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law; and,
  - d) The juvenile was adjudged a ward of the court under Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code. (Pen. Code, § 667, subd. (d)(3) and 1170.12, subd. (b)(3).)
- 7) Provides, generally, that a minor who is between 12 years of age and 17 years of age, inclusive, when the minor violates any law defining a crime, is subject to the jurisdiction of the juvenile court and to adjudication as a ward. (Welf. & Inst. Code, § 602, subd. (a).)
- 8) Establishes criteria to determine whether to transfer a minor from juvenile court to adult criminal court. (Welf. & Inst. Code, § 707.)

- 9) States that in a case in which a minor is alleged to have committed any felony or any of the enumerated felonies in subdivision (b), when the minor was 16 years of age or older, the prosecutor may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(1).)
- 10) States that in a case in which a minor is alleged to have committed any of the enumerated felonies in subdivision (b) when the minor was 14 or 15 years of age, but was not apprehended prior to the end of juvenile court jurisdiction, the prosecutor may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(2).)
- 11) States that in order to find that the minor should be transferred to a court of criminal jurisdiction, the court shall find by clear and convincing evidence that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court. In making its decision, the court shall consider the following criteria, inclusive:
  - a) The degree of criminal sophistication exhibited by the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense; the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior; the effect of familial, adult, or peer pressure on the minor's actions; the effect of the minor's family and community environment; the existence of childhood trauma; the minor's involvement in the child welfare or foster care system; and the status of the minor as a victim of human trafficking, sexual abuse, or sexual battery on the minor's criminal sophistication;
  - b) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction. The juvenile court shall give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature;
  - c) The minor's previous delinquent history. The juvenile court shall give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior;
  - d) Success of previous attempts by the juvenile court to rehabilitate the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs; and,
  - e) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development. The court shall consider evidence offered that indicates that the person against whom the minor is accused of committing an offense trafficked, sexually abused, or sexually battered the minor. (Welf. & Inst. Code, § 707, subd. (a)(3).)

- 7) Enumerates the following predicate offenses which permit transfer of a juvenile to adult court and also constitutes a prior strike for Three Strikes sentencing if other requirements are met:
- a) Murder;
  - b) Arson;
  - c) Robbery;
  - d) Rape with force, violence, or threat of great bodily harm;
  - e) Sodomy by force, violence, or threat of great bodily harm;
  - f) A lewd or lascivious act on a minor under 14 years of age by force, violence, or threat of great bodily harm;
  - g) Oral copulation by force, violence, duress, menace, or threat of great bodily harm;
  - h) Sexual penetration by force, violence, duress, menace, or threat of great bodily harm;
  - i) Kidnapping for ransom;
  - j) Kidnapping for purposes of robbery;
  - k) Kidnapping with bodily harm;
  - l) Attempted murder;
  - m) Assault with a firearm or destructive device;
  - n) Assault by means of force likely to produce great bodily injury;
  - o) Discharge of a firearm into an inhabited or occupied building;
  - p) Causing great bodily injury in the commission of specified offenses against a person who is 60 years of age or older; or against a person who is blind, a paraplegic, a quadriplegic, or a person confined to a wheelchair;
  - q) Personal use of a firearm during the commission of a felony;
  - r) Person use of a weapon;
  - s) Dissuading a witness or influencing testimony;
  - t) Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a specified controlled substance;
  - u) A “violent” felony committed for the benefit of a criminal street gang;
  - v) Escape, by use of force or violence, from a county juvenile hall, home, ranch, camp or forestry camp if great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the escape;
  - w) Torture;
  - x) Aggravated mayhem;
  - y) Carjacking while armed with a dangerous and deadly weapon;
  - z) Kidnapping for purposes of sexual assault;
  - aa) Kidnapping in the course of a carjacking;
  - bb) Drive by shooting;
  - cc) Exploding a destructive device with intent to commit murder; and,
  - dd) Voluntary manslaughter. (Welf. & Inst. Code, § 707, subd. (b).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, “California’s juvenile justice system is designed to rehabilitate young people, yet the Three Strikes law imposes severe, punitive consequences that disproportionately affect youth of color. Treating juvenile adjudications as equivalent to adult strike convictions contradicts the rehabilitative purpose of the juvenile

system. This inconsistency leads to excessively long sentences for individuals convicted of adult strike offenses, undermining efforts to support rehabilitation and instead reinforcing cycles of incarceration.

“AB 1279 seeks to address this injustice by eliminating juvenile strikes, ensuring that the justice system prioritizes rehabilitation over punishment and upholds principles of fairness, equity, and dignity—especially for communities of color disproportionately affected by these policies. Additionally, allowing individuals to petition for resentencing and have prior juvenile strike enhancements reevaluated would help correct systemic inequities that have unfairly extended adult sentences based on juvenile adjudications.

“By addressing this disparity, AB 1279 moves California toward a justice system that treats all individuals equitably rather than perpetuating racial and economic disparities through punitive sentencing policies. This reform is a critical step in ensuring that juvenile court remains focused on its intended mission of rehabilitation, rather than serving as a pipeline to excessively harsh sentences in adulthood.”

- 2) **Three Strikes Law:** In 1994, California voters passed Proposition 184, known as the “Three Strikes and You’re Out” law that defined qualifying “strikes” as those felonies listed as “serious” or “violent” on June 30, 1993. That same year, the California Legislature passed similar legislation that was signed into law. (AB 971 (Jones), Chapter 12, Statutes of 1994.) Collectively, Proposition 184 and AB 971 became known as California’s Three Strikes law which imposes longer prison sentences for certain repeat offenders. Proposition 21 of the March 2000 primary election added to the lists of serious and violent felonies and defined qualifying prior strikes as a felony listed as “serious” or “violent” felonies as of March 8, 2000, the date that the Proposition 21 took effect.

The Three Strikes law requires a person who is convicted of a felony and who previously has been convicted of one or more “violent” or “serious” felonies, known as strikes, to be subject to enhanced penalties. Specifically, if the person has one prior strike, the sentence on any new felony conviction must be double what is specified by statute. If the person has two prior strikes, the sentence on any new felony conviction was 25 years to life, although this provision was amended by Proposition 36, approved by voters in 2012, to require that the third strike must be a “serious” or “violent” felony in order to impose the life term.

The Three Strikes law also applies to crimes committed by juveniles. Specifically, the law states that a prior adjudication shall constitute a serious or violent felony conviction for purposes of Three Strikes sentencing enhancement if:

- a) The juvenile was 16 years of age or older at the time the prior offense was committed;
- b) The prior offense is listed in subdivision (b) of Section 707 of the Welfare and Institutions Code or described in statute as a “serious” or “violent felony;”
- c) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law; and,

- d) The juvenile was adjudged a ward of the juvenile court because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code. (Pen. Code, §§ 667, subd. (d)(3) and 1170.12, subd. (b)(3).

Proponents of the original Three Strikes law argued that the law would “reduce crime by incapacitating and deterring people who committed repeat offenses by dramatically increasing punishment for people previously convicted of a “serious” or “violent” offense.”<sup>1</sup> However, research shows that a decline in crime rates already began prior to the passage of the law. According to a 2005 report by the Legislative Analyst’s Office<sup>2</sup>:

The overall crime rate in California, as measured by the Department of Justice’s California Crime Index, began declining before the passage of the Three Strikes law. In fact, the overall crime rate declined by 10 percent between 1991 and 1994. The crime rate continued to decline after Three Strikes, falling by 43 percent statewide between 1994 and 1999, though it has risen by about 11 percent since 1999. Similarly, the violent crime rate declined by 8 percent between 1991 and 1994 and then fell an additional 43 percent between 1994 and 2003. It is important to note that these reductions appear to be part of a national trend of falling crime rates. National crime rates—as reported by the Federal Bureau of Investigation’s Uniform Crime Report—declined 31 percent between 1991 and 2003, with violent crime declining 37 percent over that period. Researchers have identified a variety of factors that likely contributed to these reductions in national crime rates during much of the 1990s including a strong economy, more effective law enforcement practices, demographic changes, and a decline in handgun use.

Research also shows that the Three Strikes Law disproportionately impacts people of color. According to the Committee on the Revision of the Penal Code’s (CRPC) 2021 annual report<sup>3</sup>:

More than 33,000 people in prison are serving a sentence lengthened by the Three Strikes law — including more than 7,400 people whose current conviction is neither serious nor violent. The population sentenced under the Three Strikes law is a third of the total prison population.

80% of people sentenced under the Three Strikes law are people of color. As with the entire prison population, the racial disparities are even more prevalent for young people sentenced under the law: 90% of those who were 25 or younger at the time of the offense and serving a sentence under the Three Strikes law are people of color.

People of color, particularly Black people, are arrested and prosecuted at disproportionate rates, and the Three Strikes law perpetuates these disparities by subjecting people to harsher penalties once they become justice-involved. While

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<sup>1</sup> Proposition 184, Voter Information Guide, 1994 General Election.

<sup>2</sup> LAO, *A Primer: Three Strikes - The Impact After More Than a Decade* (Oct. 2005) [https://www.lao.ca.gov/2005/3\\_strikes/3\\_strikes\\_102005.htm](https://www.lao.ca.gov/2005/3_strikes/3_strikes_102005.htm) (accessed Mar. 5, 2025].)

<sup>3</sup> *Annual Report and Recommendations 2021*, Committee on Revision of the Penal Code, pp. 43-46, fn. omitted.

Black people account for less than 30% of the entire prison population, they account for 45% of people serving a third strike sentence.

Based on CRPC's findings, the committee recommended eliminating or substantially limiting the use of the Three Strikes law.<sup>4</sup>

This bill would eliminate Three Strikes sentencing for juvenile adjudications. Applying the Three Strikes law to juveniles is even less likely to serve the penological goals of deterrence and rehabilitation that are often used as justification for imposing longer terms of incarceration<sup>5</sup>:

National studies similarly find no credible statistical evidence that passage of three strikes laws reduces crime by deterring potential criminals. Further, adolescents are much less susceptible to deterrence than adults. They tend to act impulsively, making impetuous decisions. They do not tend to engage in a cost-benefits analysis prior to deciding to commit a crime.<sup>6</sup>

....

Furthermore, mandating a penalty for a juvenile in the form of strike records that follow him for the rest of his life indicates a sense of disbelief in the capacity for these young offenders to change. Imposing permanent punishments upon juvenile offenders sends the signal that they are not capable of rehabilitation and thus runs counter to this penological goal.<sup>7</sup>

- 3) **Juvenile Transfer Process:** Starting with Proposition 21 in March 2000 and continuing until the passage of Proposition 57 in 2016, the prosecution was authorized in specified circumstances to file a criminal action against a minor directly in adult court. Proposition 57 eliminated direct filing in adult court, amending Welfare and Institutions Code section 707 to require a transfer hearing before a minor can be prosecuted in adult court.

The issue in a juvenile transfer hearing “is not whether the minor committed a specified act, but rather whether [they are] amendable to the care, treatment and training program available through the juvenile court facilities....” (*People v. Chi Ko Wong* (1976) 18 Cal.3d 698, 717, disapproved on another point in *People v. Green* (1980) 27 Cal.3d 1, 33.) Under current law, the prosecution may move to transfer to adult court any minor 16 years of age or older alleged to have committed a felony criminal offense. (Welf. & Inst. Code, § 707, subd. (a)(1).) The prosecution may also move to transfer to adult court a person who was 14 or 15 years of age at the time the person was alleged to have committed a specified serious or violent felony, but who was not apprehended prior to the end of juvenile court jurisdiction. (Welf. & Inst. Code, §§ 707, subd. (a)(2) & 707, subd. (b).) Existing law requires the juvenile court to find by clear and convincing evidence that the minor is not amenable to

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<sup>4</sup> *Id.* at p. 47.

<sup>5</sup> Caldwell, *Twenty-Five to Life for Adolescent Mistakes: Juvenile Strikes as Cruel and Unusual Punishment* (2012) 46 U.S.F. L.Rev. 581.)

<sup>6</sup> *Ibid* at p. 633, fn. omitted.

<sup>7</sup> *Id.* at p. 636.



rehabilitation while under the jurisdiction of the juvenile court in order to find that the minor should be transferred to adult criminal court. (Welf. & Inst. Code § 707, subd. (a)(3).)

In making its transfer decision, the court must consider the following: the minor's degree of criminal sophistication, whether the minor can be rehabilitated in the time before the juvenile court would lose jurisdiction over the minor, the minor's prior history of delinquency, the success of prior attempts by the juvenile court to rehabilitate the minor, and the circumstances and gravity of the charged offense. (Welf. & Inst. Code, § 707, subd. (a)(3)(A)-(E).)

Existing law provides guidance to the juvenile court when considering each of these criteria. Existing law specifies that when evaluating the degree of criminal sophistication exhibited by the minor, the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication. (Welf. & Inst. Code § 707, subd. (a)(3)(A)(ii).) Existing law additionally specifies that when evaluating the minor's previous delinquent history, the juvenile court may give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior. (Welf. & Inst. Code § 707, subd. (a)(3)(C)(ii).) Existing law states that in evaluating the circumstances and gravity of the offense alleged in the petition to have been committed by the minor, the juvenile court shall give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development. The court shall consider evidence offered that indicates that the person against whom the minor is accused of committing an offense trafficked, sexually abused, or sexually battered the minor. (Welf. & Inst. Code, § 707, subd. (a)(3)(E).)

If a minor is transferred to adult criminal court, the minor is entitled to a jury trial instead of a bench trial and faces a conviction and traditional sentencing, which may constitute a "strike" for future sentencing. This bill does not apply to criminal convictions for offenses committed when the person was under 18 years of age.

- 4) Retroactivity:** Retroactivity<sup>8</sup> means whether a change in sentencing or constitutional interpretation should be applied to cases where the penalty may already be imposed and appeals exhausted. As a general matter, Penal Code section 3 states "No part of it (meaning the codes) is retroactive, unless expressly so declared." If retroactivity is not specified, the

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<sup>8</sup> The California Supreme Court in *People v. Burgos* (2024) 16 Cal.5th 1 ruled that a defendant was not eligible for a bifurcated trial on a gang enhancement pursuant to Penal Code section 1109, as enacted in 2021 (Stats. 2021, ch. 699, § 5.) The Court correctly rejected *Estrada* as applied to the defendant's case because Penal Code section 1109 was not a criminal penalty reduction, but rather a "prophylactic rule of criminal procedure...." Accordingly, the general rule rejecting retroactivity unless otherwise specified by the statute controlled. In his concurrence, Justice Gorban asked the Legislature to consider the retroactive application of new laws, particularly where the statute is not a clear reduction of a criminal penalty, and to express their intent regarding whether any changes in that kind of legislation should be applied retroactively.

law is not applied retroactively. However, beginning in 1965, *if a defendant’s case is still pending at the time of the change and the law seeks to lessen a criminal penalty, they may be eligible for application of the new law.* (*In re Estrada* (1965) 63 Cal.2d 740, 746 (hereinafter “*Estrada*”).) This is known as the “final judgement rule.”

*Estrada* and other cases since 1965 have held “new laws that reduce the punishment for a crime are presumptively to be applied to defendants whose judgments are not yet final.” (*People v. Conley* (2016) 63 Cal.4th 646, 656, citing *Estrada*, 63 Cal.2d at 746).).

The *Estrada* presumption [of retroactivity] stems from our understanding that when the Legislature determines a lesser punishment is appropriate for a particular offense or class of people, **it generally does not wish the previous, greater punishment—which it now deems too severe—to apply going forward. We presume the Legislature intends the reduced penalty to be used instead in all cases in which there is no judgment or a nonfinal one**, and in which it is constitutionally permissible for the new law to control. (*People v. Padilla* (2022) 13 Cal.5th 152, 162, emphasis added.)

Finality is broadly construed by the courts, but generally means where a criminal proceeding has not yet reached final disposition in the highest court authorized to review it. (*People v. Esquivel* (2021) 11 Cal.5th 671, 677.)

Recently, we held that ‘a convicted defendant who [was] placed on probation after imposition of sentence [was] suspended, and who [did] not timely appeal from the order granting probation, [could] take advantage of ameliorative statutory amendments that [took] effect during a later appeal from a judgment revoking probation and imposing sentence.’ We reasoned that the defendant’s “prosecution had not been ‘reduced to final judgment at the time the ameliorative legislation was enacted as the criminal proceeding ... [meaning it] ha[d] not yet reached final disposition in the highest court authorized to review it (Internal citations omitted).” (*People v. Esquivel*, *supra*, 11 Cal.5th at 677, citing *People v. McKenzie* (2020) 9 Cal.5th 40, 43-45.)<sup>9</sup>

*Estrada*’s inference of retroactivity has been applied when the Legislature creates “a concrete avenue for certain individuals charged with a criminal offense to be treated more leniently or to avoid punishment altogether.” (*Burgos*, *supra* in footnote, 16 Cal.5th at p. 13 citing *People v. Frahs* (2020) 9 Cal.5th 618, 624; see also *People v. Wright* (2006) 40 Cal.4th 81 [newly enacted affirmative defense applies retroactively].)

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<sup>9</sup> See also *Padilla*, *supra*, 13 Cal.5th at 161 (holding that “non-final” includes any case remanded following a habeas petition.)

This bill would prohibit prior adjudications from counting as “strike” priors. Because this would treat juveniles more leniently than existing law, *Estrada’s* inference of retroactivity would apply to nonfinal cases without specific direction from the Legislature.

This bill would also create a petition process for persons who have had their sentences increased due to a prior strike for a prior juvenile adjudication. The intent of that provision is so that the changes made by this bill would retroactively apply to any case, including final cases.

- 5) **Argument in Support:** According to *All of Us or None*, a cosponsor of this bill, “California’s 1994 ‘Three Strikes’ law was born out of America’s ‘tough on crime’ era that led to the United States having the largest prison population in the world. California’s Three Strikes law affects how adults are sentenced if they were previously convicted of a serious or violent felony, commonly referred to as a ‘strike,’ and claims to deter crime with harsher sentences. A three-strikes sentence means that the court sentences a person to life in prison, with the minimum term being 25 years or triple the normal term for the crime, whichever is longer.

“Despite the well-recognized differences between adult and juvenile court, the Three Strikes law does not distinguish between juvenile ‘strike’ adjudications and adult ‘strike’ convictions. Under existing law, a juvenile strike increases adult sentencing exposure exactly the same as an adult strike. Yet because juvenile delinquency proceedings are not criminal proceedings, kids are not entitled to a trial by jury of their peers – among the most fundamental of our constitutional rights. Moreover, the primary purpose of juvenile court proceedings is rehabilitation, and the punitive use of juvenile adjudications as adult “strikes” is wholly inconsistent with this rehabilitative purpose.

“It is now well recognized that the brain is not fully developed in adolescence; cognitive brain development continues well beyond age 18 and into early adulthood. The parts of the brain that are still developing during this process affect judgment and decision-making, making them highly relevant to culpability. Kids under 18 years of age have a lack of maturity and an underdeveloped sense of responsibility that leads to reckless and impulsive decisions, particularly when it comes to committing crimes. Conversely, the fact that kids are still developing makes them especially capable of personal growth and development. As kids mature into adulthood, further brain development improves communication between the prefrontal cortex and the emotional centers of the brain so emotion regulation and behavioral control increase, and impulsivity and sensation seeking decrease. These developmental differences between kids and adults render youth ‘strikes’ not only unjust, but also a uniquely poor tool to advance rehabilitation and public safety.

“Youth strikes also disproportionately impact kids of color. Black kids are more likely to face strike charges, and Black adults are more likely to have longer sentences because of having sustained juvenile strikes in the past. Under current law, a former youth could face a 25-life sentence as an adult based on two prior juvenile adjudications -- even if neither of those adjudications was for a violent offense. At its essence, the application of the Three Strikes law to youth under 18 -- including a potential life sentence -- is inherently unjust.

“This bill does not change a judge’s discretion as to how to sentence a child for their crimes, nor does it affect a judge’s discretion to transfer a child to criminal court to be tried as an

adult if the crime is egregious.”

- 6) **Argument in Opposition:** According to the *California District Attorneys Association*, “Prohibiting the use of juvenile strikes would allow repeat, violent offenders to receive lighter sentences that could increase the risk to public safety.

“An example of the importance of allowing prosecutors the discretion to allege juvenile strike priors was seen in the Los Angeles Superior Court case of *In re J.Y.* In 2017, a seventeen year old 17-year-old shot and killed a 40-year-old man as he stood on the side of a Los Angeles freeway awaiting AAA assistance. Minor killed the man because he was standing on a freeway in rival gang territory. The District Attorney at the time, initially filed a petition in juvenile court and filed a motion to transfer the case from juvenile court to adult. A subsequent District Attorney withdrew the motion to transfer to adult court, as well as dismissing all special allegations. In 2021, the minor admitted the murder charge in juvenile court and was released from custody two years later.

“In 2023, the same juvenile, now an adult, Yoakum Amir Yoakum, was arrested for a robbery with the use of a firearm. While in custody, Yoakum committed another serious crime by stabbing another inmate. In 2025, Yoakum was out on bond from the prior robbery and stabbing when he was arrested in Ventura County for a theft, high-speed pursuit, and possession of a loaded firearm. Yoakum is currently pending criminal charges for the 2025 crimes in the Ventura County Superior Court. The Ventura County Superior Court complaint alleges Yoakum’s prior juvenile strike murder prior. AB 1279 would have prohibited the use of Yoakum’s prior murder strike from being alleged in the adult criminal case.”

- 7) **Related Legislation:** None

- 8) **Prior Legislation:**

- a) AB 2631 (M. Bonta), Chapter 330, Statutes of 2022, requires the court to find by clear and convincing evidence that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court in order to find that the minor should be transferred to a court of criminal jurisdiction.
- b) AB 1127 (Santiago), of the 2021-2022 Legislative Session, would have prohibited a prior juvenile adjudication from counting as a prior strike for Three Strikes enhanced sentencing. AB 1127 was held on the Assembly Floor.
- c) SB 439 (Mitchell), Chapter 1006, Statutes of 2018, prohibited the prosecution of children under the age of 12 years in the juvenile court, except when a minor is alleged to have committed murder or specified sex offenses.
- d) SB 1391 (Lara) Chapter 1012, Statutes of 2018, repealed the authority of a prosecutor to make a motion to transfer a minor from juvenile court to adult criminal court if the minor was alleged to have committed certain serious offenses when he or she was 14 or 15 years old, unless the minor was not apprehended prior to the end of juvenile court jurisdiction.

**REGISTERED SUPPORT / OPPOSITION:****Support**

All of Us or None (Co-sponsor)  
Pacific Juvenile Defender Center (Co-sponsor)  
A New Path  
A New Way of Life Re-entry Project  
ACLU California Action  
All of Us or None Orange County  
Alliance for Boys and Men of Color  
Alliance San Diego  
Back to The Start  
Bend the Arc: Jewish Action California  
Buen Vecino  
C.h.a.n.g.e.s  
California Alliance for Youth and Community Justice  
California Black Power Network  
California for Safety and Justice  
California Public Defenders Association (CPDA)  
Center on Juvenile and Criminal Justice  
Communities United for Restorative Youth Justice (CURYJ)  
Democracy Beyond Bars  
Ella Baker Center for Human Rights  
Empowering Women Impacted by Incarceration  
Families Inspiring Reentry & Reunification 4 Everyone (FIR4E)  
Felony Murder Elimination Project  
Freedom 4 Youth  
Fresh Lifelines for Youth  
Fresno County Public Defender's Office  
Friends Committee on Legislation of California  
Grip Training Institute  
Initiate Justice  
Initiate Justice Action  
Jesse's Place Org  
Justice2jobs Coalition  
LA Defensa  
Legal Services for Prisoners With Children  
Local 148 LA County Public Defenders Union  
Milpa Collective  
National Center for Youth Law (UNREG)  
Peace and Justice Law Center  
Pillars of The Community  
Prison Ftio  
Restoring Hope California  
Reversion 36  
Riverside All of Us or None  
Ryse Center  
San Francisco Public Defender

Silicon Valley De-bug  
Sister Warriors Freedom Coalition  
Smart Justice California, a Project of Tides Advocacy  
Starting Over INC.  
Starting Over Strong  
The Change Parallel Project  
The Place4grace  
The W. Haywood Burns Institute  
Vera Institute of Justice  
Viet Voices  
Youth Alive!  
Youth Forward

**Oppose**

Arcadia Police Officers' Association  
Brea Police Association  
Burbank Police Officers' Association  
California District Attorneys Association  
California Narcotic Officers' Association  
California Police Chiefs Association  
California Reserve Peace Officers Association  
California State Sheriffs' Association  
Claremont Police Officers Association  
Corona Police Officers Association  
Culver City Police Officers' Association  
Fullerton Police Officers' Association  
Murrieta Police Officers' Association  
Newport Beach Police Association  
Orange County Sheriff's Department  
Palos Verdes Police Officers Association  
Placer County Deputy Sheriffs' Association  
Pomona Police Officers' Association  
Riverside Police Officers Association  
Riverside Sheriffs' Association  
Santa Ana Police Officers Association

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