


BOARD of SUPERVISORS



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MEMORANDUM

TO: George Gascón, District Attorney, Office of the District Attorney
Jeff Adachi, Public Defender, Office of the Public Defender
Karen L. Fletcher, Chief Adult Probation Officer, Adult Probation Department
Allen Nance, Chief Probation Officer, Juvenile Probation Department
Vicki Hennessy, Sheriff, Sheriff's Department
William Scott, Police Chief, Police Department
Barbara A. Garcia, Director, Department of Public Health
Karen Shain, Reentry Policy Planner, Reentry Council

FROM:  Alisa Somera, Legislative Deputy Director
Rules Committee

DATE: October 24, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Cohen on October 17, 2017:

File No. 171106

Ordinance amending the Administrative Code to reauthorize the San Francisco Sentencing Commission and extend the sunset date to June 30, 2020.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Cristine Soto DeBerry, Office of the District Attorney
Maxwell Szabo, Office of the District Attorney
LaShaun Williams, Adult Probation Department
Sheryl Cowan, Juvenile Probation Department
Theodore Toet, Sheriff's Department

Katherine Gorwood, Sheriff's Department
Eileen Hirst, Sheriff's Department
Rowena Carr, Police Department
Kristine Demafeliz, Police Department
Greg Wagner, Department of Public Health
Colleen Chawla, Department of Public Health

1 [Administrative Code - Reauthorizing Sentencing Commission]

2
3 **Ordinance amending the Administrative Code to reauthorize the San Francisco**
4 **Sentencing Commission and extend the sunset date to June 30, 2020.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
8 **Board amendment additions** are in double-underlined Arial font.
9 **Board amendment deletions** are in ~~strikethrough Arial font~~.
10 **Asterisks (* * * *)** indicate the omission of unchanged Code
11 subsections or parts of tables.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. Background.

14 (a) The San Francisco Sentencing Commission (“Commission”) was established in
15 2012 by Ordinance No. 10-12 to encourage the development of criminal sentencing strategies
16 that reduce recidivism, prioritize public safety and victim protection, emphasize fairness,
17 employ evidence-based best practices, and efficiently utilize San Francisco’s criminal justice
18 resources. Codified in Chapter 5 of the Administrative Code as Article XXV, the Commission
19 was reauthorized in 2015 by Ordinance No. 87-15. Article XXV, and hence the Commission,
20 is scheduled to sunset on December 31, 2017, pursuant to Administrative Code Section
21 5.250-3.

22 (b) Section 5.250-3 provides, however, that Article XXV will not sunset if the Board of
23 Supervisors adopts an ordinance continuing its existence. Further, Section 5.250-3 states
24 that the Commission shall submit a report to the Board recommending whether the
25 Commission should continue to operate and, if so, whether the Board should consider

1 amendments that would enhance the capacity of the Commission to further its goals, along
2 with draft amendments to implement its recommendations.

3 (c) At the Commission meeting of December 14, 2016, the Commission decided to
4 recommend that it continue to operate. This recommendation is contained in a report dated
5 December 14, 2016, in the form of a letter to all members of the Board of Supervisors. The
6 letter, including all attachments, is on file with the Clerk of the Board of Supervisors in File No.
7 170019.

8
9 Section 2. Reauthorization of Sentencing Commission.

10 Chapter 5, Article XXV, of the Administrative Code is hereby continued in its entirety,
11 with the amendments as shown in Section 3 of this ordinance.

12
13 Section 3. The Administrative Code is hereby amended by renumbering existing
14 Sections 5.250, 5.250-1, 5.250-2, and 5.250-3 as Sections 5.25-1, 5.25-2, 5.25-3, and 5.25-4
15 respectively, and by revising the newly-numbered Sections, to read as follows:

16
17 **ARTICLE XXV: SAN FRANCISCO SENTENCING COMMISSION**

18 **SEC. ~~5.250~~5.25-1. ESTABLISHMENT AND PURPOSE: SAN FRANCISCO**
19 **SENTENCING COMMISSION.**

20 (a) The City hereby establishes the San Francisco Sentencing Commission
21 (*“Commission”*).

22 (b) The purpose of the ~~San Francisco Sentencing~~ Commission is to encourage the
23 development of criminal sentencing strategies that reduce recidivism, prioritize public safety
24 and victim protection, emphasize fairness, employ evidence-based best practices, and
25 efficiently utilize San Francisco’s criminal justice resources.

1 **SEC. ~~5.250-15.25-2~~. MEMBERSHIP AND ORGANIZATION.**

2 (a) **Members.** The Commission shall consist of 12 members, or 13 members if the
3 Superior Court agrees to provide one member. The head or chair of each of the following
4 agencies and bodies shall serve on or will assign one staff member to serve on the
5 Commission as a voting member: District Attorney; Public Defender; Adult Probation; Juvenile
6 Probation; Sheriff; Police; the Department of Public Health; and the Reentry Council.~~and If the~~
7 Superior Court, assuming it agrees to participate on the Commission, its head, chair, or assigned
8 staff member may elect to participate as a voting or non-voting member. In addition, the following
9 additional voting public members will be appointed: a member of a nonprofit organization that
10 works with victims, chosen by the Family Violence Council (Article XIX of this Chapter 5); a
11 member of a nonprofit organization that works with ex-offenders, chosen by the Reentry
12 Council (Article I of this Chapter 5); a sentencing expert chosen by the Board of Supervisors;
13 and an academic researcher with expertise in data analysis appointed by the Mayor.

14 (b) **Quorum.** ~~10~~ Ten voting members of the Commission shall constitute a quorum,
15 and the Commission shall have the authority to act on the vote of a majority of the quorum.

16 (c) **Officers.** The District Attorney or ~~his or her designee~~ the staff member of the District
17 Attorney serving on the Commission shall chair the Commission.

18 (d) **Staff Support.** The District Attorney's Office shall provide staff support and
19 administrative assistance to the Commission.

20 (e) **Meeting Frequency.** The Commission shall meet at least three times a year.

21 (f) The members of the Commission chosen by the Family Violence Council, the Reentry
22 Council, the Board of Supervisors, and the Mayor (collectively the "public members" of the
23 Commission) shall All-public-members serve at the pleasure of the appointing authority and can
24 be removed at any time, with or without cause.
25

1 (g) Any public member who fails to attend at least half of the meetings in any fiscal
2 year, without the express approval of the Commission at or before each missed meeting, shall
3 be deemed to have resigned from the Commission ~~ten~~ 10 days after the next regular meeting
4 following the last unapproved absence, and the Commission shall inform the appointing
5 authority of the resignation.

6 **SEC. ~~5.250-25.25-3~~. POWERS AND DUTIES.**

7 The Commission shall have the following powers and duties:

8 (a) Review and assess sentencing approaches locally and compare to other
9 jurisdictions.

10 (b) Review and assess the City's capacity and utilization of services and
11 alternatives to incarceration throughout the criminal justice continuum, including pre-
12 adjudication and post-release.

13 (c) Review and assess the Justice Reinvestment Initiative recommendations to
14 invest in best practices to reduce recidivism.

15 (d) Develop a recommended system of uniform definitions of recidivism for City
16 departments to track and report on the outcomes of various criminal sentences and City
17 programs meant to aid in reducing recidivism.

18 (e) Develop data collection standards and recidivism reporting standards.

19 (f) Develop and recommend department-specific goals to reduce recidivism for the
20 City departments represented on the Sentencing Commission, and other relevant City
21 departments.

22 (g) Make recommendations regarding changes that should be made to the Penal
23 Code and any other state laws to remove barriers to effective implementation of best practices
24 in criminal justice.

1 (h) Facilitate trainings on best practices in sentencing for various criminal justice
2 agencies.

3 (i) Share information and work in collaboration with the Reentry Council,
4 established pursuant to Administrative Code Sections 5.1-1 *et seq.*, and the Community
5 Corrections Partnership, as established by the California Penal Code.

6 (j) In December 2012, and on an annual basis thereafter, submit a report to the
7 Mayor and the Board of Supervisors summarizing the findings of the Commission and making
8 recommendations on the aforementioned categories.

9 ~~(k)~~ — *Provided, however, that n*Nothing in *this* Article XXV shall infringe on any agency's
10 legally mandated responsibilities in the criminal justice system, and, as such,
11 recommendations are not statutorily binding on any City department.

12 **SEC. ~~5.250-3~~5.25-4. SUNSET CLAUSE.**

13 This Article XXV shall expire on ~~December 31, 2017~~ June 30, 2020 unless the Board of
14 Supervisors adopts an ordinance continuing its existence. The Commission shall submit a
15 report to the Board of Supervisors by ~~June 30, 2017~~ January 1, 2020 recommending whether the
16 Commission should continue to operate, and if so, whether the Board of Supervisors shall
17 consider legislative changes that would enhance the capacity of the Commission to achieve
18 the goals underlying this Article. The Commission's recommendations shall include drafts of
19 ordinances that would implement its recommendations.

20
21 Section 4. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 5. Retroactivity. The provisions of this ordinance shall be retroactive to
2 December 31, 2017 if the effective date of the ordinance occurs after that date.

3 Notwithstanding the effective date of the ordinance, it is the intent of the Board of Supervisors
4 that the authority conferred on the Commission shall be without interruption, and that the
5 incumbent public members of the Commission shall continue to hold their seats until they are
6 removed by their respective appointing authorities.

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8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: Paul Zarafsky
11 for WAYNE SNODGRASS
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Reauthorizing Sentencing Commission]

Ordinance amending the Administrative Code to reauthorize the San Francisco Sentencing Commission and extend the sunset date to June 30, 2020.

Existing Law

The San Francisco Sentencing Commission (the "Sentencing Commission"), codified at Chapter 5, Article XXV of the Administrative Code, is scheduled to sunset on December 31, 2017.

Amendments to Current Law

This ordinance would reauthorize the Sentencing Commission and extend its sunset date to June 30, 2020.

Background Information

The Sentencing Commission was established in 2012 to encourage the development of criminal sentencing strategies that reduce recidivism, prioritize public safety and victim protection, emphasize fairness, employ evidence-based best practices, and effectively utilize San Francisco's criminal justice resources. The Sentencing Commission has recommended that it be authorized to continue to operate.

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