

Legislature considers bill to enhance death penalty law

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SACRAMENTO — A bill to expand the special-circumstances provisions of the state's death penalty laws to include adults who kill witnesses in juvenile proceedings has cleared the state Senate.

The bill, SB 44 by Sen. Bill Lockyer, D-Hayward, now goes to the Assembly, where previous versions have died in committee.

Matthew Newman, an aide to Senate Judicial Committee chairman Lockyer, said the bill's supporters are more optimistic this year because last year's proposal was stalled by controversy over the California Supreme Court reconfirmation election.

The bill would expand provisions of the 1978 Briggs death penalty initiative, which specified special circumstances in which the death penalty could be imposed, Newman said.

In adult criminal proceedings, the murder of a witness to prevent testimony in a criminal trial is a special circumstance under Briggs. The same does not apply to adults who commit such murders to prevent testimony in quasi-criminal juvenile proceedings.

"This has nothing to do with putting juveniles to death," Newman said. "If they're juveniles, juvenile proceedings apply." The bill would only affect adults who murder witnesses to prevent testimony in quasi-criminal juvenile proceedings, he said.

"If you're trying a gang leader in juvenile

court, and his buddies go out and kill an 80-year-old witness, and the perpetrator [of the murder] is 50 years old, this would apply," Newman said.

The California Supreme Court held in *People v. Weidert* in 1985 that juvenile court proceedings were not covered by the special circumstances provisions of the Briggs initiative.

In the Weidert case, an 18-year-old and an accomplice killed a burglary victim in Fresno in 1980 to prevent the victim's testimony in the burglary trial, which was a juvenile proceeding. The defendant was 17 at the time the burglary was committed and 18 at the time of the murder.

SB 44 is supported by the Attorney General's office, the California District Attorneys Association and other law enforcement and prosecutors' groups. The American Civil Liberties Union and the Friends Committee on Legislation are fighting it.

"We oppose any expansion of the death penalty," said ACLU legislative advocate Marjorie Swartz. "It is discriminatory in its application, and it is irreversible if a person is later found not guilty. It is a denial of due process, and it is cruel and unusual punishment. The substance [of the bill] really doesn't matter, because we oppose any expansion of the death penalty."

Now that it has passed the Senate, the bill goes to the Assembly Committee on Public Safety.