

Deukmejian Signs Bail-Setting Strictures

BY SIGRID BATHEN
RECORDER CAPITAL CORRESPONDENT

SACRAMENTO — A measure requiring California judges to make public safety the main factor in the setting of bail, and to update bail schedules annually and uniformly has been signed into law by Gov. George Deukmejian.

"This legislation ensures that the public's safety is the primary consideration of California judges when they set bail amounts for suspected criminals," Deukmejian said in signing AB 630 last Thursday. "By matching bail amounts more closely with the seriousness of the crimes charged, we are even better equipped to keep dangerous criminals off our streets," said the governor. The bill was sponsored by Assemblyman Larry Stirling, R-San Diego.

Organizations of private criminal defense attorneys and public defenders, who opposed the bill, said the statute is unnecessary because judges already have authority in bail-setting to increase the

amount based on the severity of the crime and the defendant's danger to society.

Prosecutors countered that the statute is an important signal to judges.

The public safety provisions of the measure are virtually identical to similar provisions in Proposition 8, the so-called Victims' Bill of Rights.

"This makes a clear statement in statute," said Gary Mullen, executive director of the California District Attorneys Association. "We wanted to make sure there is direction for judges, and we thought it was a worthwhile provision to put in the law."

David Nagler, legislative advocate for the California Public Defenders Association and for California Attorneys for Criminal Justice, which represents private criminal defense attorneys, said the groups opposed the bill because "additional statutes on the setting of bail are simply not necessary."

"There are too many bills that attempt to address a specific example by general-

izing on a statewide basis," he said.

Lisa Burroughs Wagner, counsel to the Assembly Committee on Public Safety, which Stirling chairs, said the bill was not prompted by a specific case, although a highly publicized San Diego murder case did heighten legislative interest in factors affecting the setting of bail.

In that case — in which a California Highway Patrol officer allegedly murdered a young San Diego woman — Wagner said the victim's family hired an attorney who attempted to argue against bail for the defendant, but was told by the judge that he lacked standing to argue against bail, and that public safety was not the primary consideration in setting bail. The defendant is free on bail awaiting trial, Wagner said.

"I can't imagine a drawback to codifying the law," she said. "Some judges really are not aware of the permissible parameters."

Most jurisdictions update their bail

schedules regularly, she said, but the law now mandates that they update those schedules annually.

Deputy Attorney General Michael L. Pinkerton, legislative advocate for the attorney general's criminal division, said the attorney general's office supported the measure because it would promote uniformity. Pinkerton agreed with Nagler that judges have the authority to take certain factors into consideration in setting bail, "but this helps to specify those factors."

"It is not a bill that is an assault on civil liberties," added Pinkerton, who was the legislative advocate for California Attorneys for Criminal Justice before joining the attorney general's office.

Under past law, according to a legislative analysis of the measure, judges "must take into consideration the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing."