

# Connecticut General Assembly



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**SUBJECT:** Adoption of California's 'Three Strikes' Law

You asked how much it would cost Connecticut to adopt California's 'three strikes' criminal sentencing law.

### **Prisons**

Adopting California's 'three strikes' law would significantly increase the number of inmates in the Connecticut correctional system, which would result in a significant cost to the Department of Correction (DOC). There would be no fiscal impact incurred by the department during the first year of adoption; the fiscal impact would begin to be realized approximately 34 months after adoption.

The following fiscal estimates are based on a list of crimes used by the Board of Pardons and Parole (BPP) that may be considered violent <sup>1</sup>(see Appendix A, attached for a complete list of the crimes).

In FY 07 there were 1,045 inmates sentenced for a felony charge who have two or more prior convictions of a violent felony. The 1,045 inmates would be eligible for a sixty-year sentence if the 'three strikes' law was adopted in Connecticut.

Currently, these offenders receive an average sentence of 39 months. Assuming that they serve on average 85% of their sentence before becoming eligible for parole, the fiscal impact of the new policy would not occur until approximately 34 months after adoption.

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<sup>1</sup> Eligible for 85% sentence minimum.

At the beginning of month 34 the offender population would begin to increase at an average rate of 87 offenders per month (1,045/12), and would continue to increase for sixty years, when the first of the newly sentenced inmates would be eligible for release.

It is estimated that 5 years from adoption, the new law would result in 2,262 additional inmates in the incarcerated population. Using the current per capita cost of incarceration of \$44,165<sup>2</sup>, the additional inmates would result in a cost of approximately \$100 million dollars.

However, at current rates of capacity, DOC would not be able to absorb all of the additional inmates within existing facilities. At least one new 1,000 bed high security prison would have to be constructed. The estimated cost of the new facility is \$110 million for construction.

## Courts

Adopting California's 'three strikes and you're out' policy would reduce or eliminate the incentive for certain defendants to plea bargain.<sup>3</sup> It could thereby generate up to twenty five (estimated) more felony trials in Connecticut each year.<sup>4</sup> These trials would involve the potential imposition of substantial prison sentences (e.g., life imprisonment) and, consequently, they would require more resources to process than typical felony trials.<sup>5</sup> The number of appeals and habeas proceedings also would be expected to increase subsequent to convictions under 'three strikes' provisions.

It is estimated that five public defender positions (three attorneys and two investigators) and six state prosecutor positions (four attorneys and two inspectors) would need to be added to handle the anticipated increase in felony trials resulting from adoption of

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<sup>2</sup> Comptroller calculated using a cumulative rate based on expenditures of the fiscal year ending June 30, 2006.

<sup>3</sup> According to research conducted at George Washington University, "In California the trial rate for felony non-strike cases is 4 per cent, compared to 9 per cent for second strike cases and 41 per cent for third strike cases." James Austin, John Clark, Patricia Hardyman and D. Alan Henry, "The Impact of 'Three Strikes and You're Out,'" Punishment and Society, 1999, 145. However, the article concludes that, "...because two and three strike cases represent such a small percentage of all trials, the [three strikes] law has not had a major impact on the overall trial rate [in California]." Id.

<sup>4</sup> Calculated as follows: 229 CT felony trials (actual FY 07) \* 10% = 23. According to California's nonpartisan Legislative Analyst's Office, the rate of felony cases decided by jury trial has increased almost ten per cent since enactment of Three Strikes legislation in 1994. The report concludes that the Three Strikes law has been a primary cause for this increase. CA Legislative Analyst's Office. A Primer: Three Strikes – the Impact After More than a Decade. October 2005; available from [http://www.lao.ca.gov/2005/3\\_Strikes/3\\_strikes\\_102005.htm](http://www.lao.ca.gov/2005/3_Strikes/3_strikes_102005.htm). Note that another major reason for this increase is likely the growth in California's population (about 14%) over the same period.

<sup>5</sup> It is estimated that trials involving second or third strike charges would require twice the resources necessary to handle than other types of felony trials. This estimate is based on case weighting that the Division of Public Defender Services uses to determine its resource needs: murder and non-death penalty capital cases weigh twice as much as other major felony cases. Public Defender Services Commission. Annual Report. Notes to the Appendix. January 1, 2007. In effect, therefore, a numerical increase of 23 in the number of felony trials involving second and third strikes is equal to *46 additional trials for purposes of determining resource needs*.

California's 'three strikes' policy.<sup>6</sup> In addition, two public defender positions and three state prosecutor attorney positions would be needed to handle the anticipated increase in appeals and habeas matters. The annual state cost, including salaries, fringe benefits and other expenses, to fund these positions within the Division of Criminal Justice and Public Defender Services Commission is about \$2 million, in addition to an initial cost of roughly \$100,000 to purchase necessary equipment. The Judicial Department would incur marginal annual costs, estimated to be less than \$100,000, to provide services (e.g., jury fees, staff overtime, etc.) in support of the additional felony trials that are expected to take place under the new policy.

## **Appendix A**

### **SEXUAL ASSAULT 3RD DEG-FIREARM**

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<sup>6</sup> The personnel need is estimated to dispose of four major felony trials per month (46/12).

SEXUAL ASSAULT 3RD DEG-FIREARM  
SEX ASSAULT 3RD-FIREARM,V<16YR  
ARSON 2ND DEG  
INCITE RIOT-CORRECTIONS INST  
ASSAULT DOC EMPLOYEE 1ST DEG  
RELATING TO DEATH PENALTY  
ROBBERY BY CARJACKING  
POSS.OF ASSAULT WEAPON  
ACT CONC SEXUAL ASSAULT  
NEGLIGENT HOMICIDE-MOTOR VEH  
VIO PISTOL PERMIT REQS  
FLS STMNT-TRANSFER PSTL/RVLVR  
FLS STMNT-TRANSFER PSTL/RVLVR  
ILL XFER PISTOL TO PERSON < 21  
ILL CARRY PISTOL WO PERMIT  
ILL ALTERATION FIREARM IDENTS  
MURDER  
1ST DGR MURDER,OTHER HOMICIDE  
2ND DEGREE MURDER  
ASSAULT W/ INTENT MURDER  
AGGRAV ASSAULT WITH WEAPON  
RISK OF INJURY TO CHILD  
RISK OF INJURY TO CHILD  
ILL SEXUAL CONTACT-VCTM<AGE 16  
ILL SEXUAL CONTACT-VCTM<AGE 16  
BUYING OR SELLING CHILD<16 YRS  
INTENT TO INJURE WITH EXPLOSIV  
ILL BOMB MANUFACTURE  
MACHINE GUNS  
USE MACHINE GUN-AGGRSSVE PRPSE  
FLR KEEP MACHINE GUN REGISTER  
IL POSS ASSAULT WPN (EXCEPTION  
POSS ASSAULT WEAPON  
ILL POSS ASSAULT WPN  
USE FIREARM FOR A,B,C FELONY  
LOADED GUN IN MV/SNOWMOBILE  
CARRY/SELL DANGEROUS WEAPON  
USE OF FORCE DEFEND PROPERTY  
MURDER  
MURDER  
MURDER-CAPITAL OFFENSE  
MURDER-PEACE OFFICER  
MURDER-PECUNIARY GAIN  
MURDER-PRIOR MURDER CONVICTION  
MURDER-SERVING LIFE SENTENCE  
RAPE, SECOND DEGREE

SEXUAL ASSAULT 4TH DEG  
SEX 4-INABILITY TO CONSENT  
SEX 4-PHYSICALLY HELPLESS  
SEX 4-VCTM<18YR,ACTOR=GUARDIAN  
SEX 4-ACTOR IN CHARGE OF VCTM  
SEX 4-SX CTCT W/O CONSENT,V<16  
SEX 4-SEX CONTACT W/O CONSENT  
SEX 4-SX CT-ANIMAL/CORPSE,V<16  
SEX 4-SEX CTC-ANIMAL OR CORPSE  
SEX 4-ACTOR=PSYCHOTHRPST,V<16Y  
SEX 4-ACTOR IS PSYCHOTHERAPIST  
SEX 4-FALSE REP PURPOSE,V<16YR  
SEX 4-FALSE REP OF MED PURPOSE  
SEX 4-V=STUDENT<16,ACTR=EMPLYE  
SEX 4-VCTM=STUDENT,ACTR=EMPLYE  
SEX 4-V=STUDENT<16Y,ACTR=COACH  
SEX 4-VCTM=STUDENT,ACTOR=COACH  
SEX 4-VICTIM UNDER 16 YRS OLD  
SEX 4-UNABLE TO CONSENT,V<16YR  
SEX 4-PHYSICALLY HELPLESS,V<16  
SEX 4-VCTM<16YR,ACTOR=GUARDIAN  
SEX 4-ACTOR IN CHARGE OF V<16  
SEX ASSAULT 4TH - VCTM<16YRS  
UNLAWFUL RESTRAINT 2ND DEG  
CUSTODIAL INTERFERENCE 1ST DEG  
ROBBERY RELATED  
ROBBERY 1ST DEG  
ROBBERY BY CARJACKING  
INCITE INJURY-PERSON/PROPERTY  
STALKING 1ST DEG  
STALKING 2ND DEG  
HARASSMENT 1ST DEG  
HARASSMENT 2ND DEG  
POS SAWED OFF SHOTGUN/SILENCER  
STEALING FIREARM  
CRIMINAL USE OF WEAPON  
POSSESS WEAPON ON SCHOOL GRNDS  
CRIM POSSESS PISTOL/REVOLVER  
MANSLAUGHTER 1ST DEG  
MANSLAUGHTER 1ST DEG-FIREARM  
MANSLAUGHTER 2ND DEG  
MANSLAUGHTER 2ND DEG-FIREARM  
MANSLAUGHTER 2ND DEG-MOTOR VEH  
MISCONDUCT W/ MOTOR VEHIC (CR)  
ASSAULT 1ST DEG  
ASSAULT 1ST DEG-SER PHYS INJRY

ASSAULT 1ST DEG-VICTIM<AGE 10  
ASSAULT 1ST DEG-DISFIGURE  
ASSAULT 1ST DEG-VICTIM<AGE 10  
ASSAULT 1ST DEG-EX IND TO LIFE  
ASSAULT 1ST DEG-VICTIM<AGE 10  
ASSAULT 1ST DEG-AID BY OTHERS  
ASSAULT 1ST DEG-VICTIM<AGE 10  
ASSAULT 1ST-DISCHARGE FIREARM  
ASSAULT 1ST DEG-VICTIM<AGE 10  
ASSLT 1- VCTM ELDERLY OR OTHER  
ASSAULT 2ND DEG  
ASSAULT 2ND DEG-FIREARM  
ASSLT 2- VCTM ELDERLY OR OTHER  
ASLT 2 W/FIREARM-VCTM ELDER OR  
SEXUAL ASSAULT 1ST DEG  
SEX 1-USE OR THREAT OF FORCE  
SEX 1-VCTM<13YR ACTOR>2Y OLDER  
SEX 1-SEX 2 W/AID OF OTHERS  
SEX 1-SEX 2 AIDED, VCTM<10YRS  
SEX 1-MENTALLY INCAPACITATED  
SEX 1-VCTM <10YRS MENTAL INCAP  
SEX 1-VCTM < 10YRS OLD FORCED  
SEX 1-VCTM < 16YRS OLD FORCED  
SEX 1-VCTM<10YR,ACTOR>2Y OLDER  
SEX 1-VCTM<13YR ACTOR>2Y OLDER  
SEX ASSLT 1ST DEG-VCTM<AGE 10  
SEXUAL ASSAULT-SPOUSE/COHABITR  
KIDNAP 1ST DEG  
KIDNAP 1ST DEG-FIREARM  
KIDNAP 2ND DEG  
KIDNAP 2ND DEG-FIREARM  
UNLAWFUL RESTRAINT 1ST DEG  
BURGLARY 1ST DEG  
BURGLARY 1ST DEG-DEADLY WEAPON  
BURGLARY 1ST DEG-BODILY INJURY  
BURGLARY 2ND DEG-FIREARM  
BURGLARY 3RD DEG-FIREARM  
ARSON 1ST DEG  
ROBBERY 1ST DEG  
ROBBERY 1ST DEG-SER PHYS INJRY  
ROBBERY 1ST DEG-DEADLY WEAPON  
ROBBERY 1ST DEG-DANGEROUS INST  
ROBBERY 1ST DEG-FIREARM THREAT  
ROBBERY 2ND DEG  
ROBBERY 3RD DEG  
ASSAULT-PUB SFTY/EMGY MED PERS

RIOT-CORRECTIONS INSTITUTION