



# LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

## SACRAMENTO LEGISLATIVE OFFICE

GEORGE GASCÓN • District Attorney  
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June 28, 2023

The Honorable Anthony Portantino  
Senate Appropriations Committee, Chair  
State Capitol, Room 412  
Sacramento, CA 95814

### **ASSEMBLY BILL 791 (RAMOS) SUPPORT Senate Appropriations Committee**

Dear Senator Portantino:

The Los Angeles County District Attorney's Office is pleased to support Assembly Bill 791 (Ramos).

AB 791 clarifies that the prohibition on post-conviction bail for cases punishable by death also applies to cases where the punishment would be life in prison without the possibility of parole (LWOP).

In California, bail is a constitutional right except when the defendant is charged with: (1) a capital crime; (2) a felony involving violence or sex and the court finds that the person's release would result in great bodily harm to another; or (3) when the defendant has threatened another and the court finds it likely that the defendant might carry out that threat.

Penal Code section 1166 states that if a verdict is rendered against a defendant, the defendant must be remanded to await the court's judgment— i.e., pending sentencing. However, after "considering the protection of the public, the seriousness of the offense charged and proven, the previous criminal record of the defendant, the probability of the defendant failing to appear for the judgment of the court upon the verdict, and public safety," the court may allow the defendant to remain out on bail if it concludes the evidence supports this decision. That being said, Penal Code section 1270.5 provides that a "defendant charged with an offense punishable with death cannot be admitted to bail, when the proof of his or her guilt is evident or the presumption thereof great."

A defendant convicted of first-degree (capital) murder with a special circumstance is punishable by death or LWOP. A convicted capital murder defendant has no incentive to return for sentencing and every incentive to use violence against the public and law enforcement to avoid a return to custody. While Penal Code sections 1166 and 1272

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address convicted murder defendants facing death sentences, the statutes do not explicitly address convicted murder defendants facing LWOP.

On December 29, 2022, a Riverside County Deputy Sheriff was killed by a defendant, William McKay, who was out on bail awaiting sentencing. McKay had been convicted of offenses punishable by life in prison. AB 791 simply clarifies existing law to ensure tragedies such as this aren't unnecessarily repeated.

If you have any questions or need additional information, please feel free to contact Daniel Felizzatto in my Sacramento Legislative Office at (916) 442-0668.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Gascón", written in a cursive style.

GEORGE GASCÓN  
District Attorney

cc: Assembly Member Ramos