

# YES ON 62

## Prop 66 Fact Sheet

**DEATH PENALTY. PROCEDURES. INITIATIVE STATUTE.** Changes procedures governing state court challenges to death sentences. Designates superior court for initial petitions and limits successive petitions. Requires appointed attorneys who take non-capital appeals to accept death penalty appeals. Exempts prison officials from existing regulation process for developing execution methods.

- Prop 66 Ballot Label Official Voter Guide

### ***Prop 66 makes the problems worse and spreads its burdens and costs to local courts and county budgets.***

**Adds new layers of appeals.** Prop 66 takes an already complicated appeals process for death penalty cases and adds two additional layers of review. It directs those sentenced to death to file their post-conviction habeas petitions in superior courts. They are then required to file appeals of denied petitions to appellate courts before being heard by the California Supreme Court.

**Drains local court resources.** The increased workload will take up a significant, and in some counties an overwhelming, percentage of local court resources. The prioritizing of death penalty cases – as Prop 66 imposes – would come at the expense of all other matters before the courts, both criminal and civil. The judicial system’s ability to handle issues like business claims, family custody hearings and traffic tickets in a timely manner would be negatively impacted.

**Cannot be legally enforced.** Prop 66 attempts to change the California Supreme Court’s docket priority and set time lines through a statutory enactment. The mandate, however, violates the separation of judicial and legislative powers and cannot be legally enforced.

**Brings the problems of a costly death row to local counties.** For all the death penalty’s problems, at least they remain contained in a single death row. Prop 66 distributes 746 death row inmates – who require separate housing, guards with specialized training, security level IV facilities and unique physical and mental health accommodations – around the state. The extensive costs are passed on to local counties.

**Forces inexperienced attorneys to handle death row cases.** Prop 66 requires all attorneys who participate in public defense panels to accept death row case appointments regardless of whether they are experienced or qualified in this uniquely specialized area of criminal law. The requirement is expected to drive many attorneys away from public defense service.

**Puts counties on the hook for attorney costs and legal fees.** The added costs of appointing attorneys to the 355 death row inmates currently in need of counsel for habeas petitions are significant. Prop 66 does not establish a funding source for appointing counsel, leaving counties to pick up 90% of the costs.

**Leads to convictions being overturned.** Thorough appellate legal review is necessary to satisfy the due process guarantees in both the United States and California constitutions. As the Office of the California Attorney General has argued, the “process for reviewing capital cases is not quick or casual – nor should it be.” Prop 66’s attempt to rush the constitutionally mandated review process may compromise due process protections and, as a result, lead to the reversal of convictions.

**An impossible solution.** With a backlog of more than 150 capital appeals and habeas petitions now awaiting review, and hundreds more in the pipeline, the California Supreme Court will have to put its full attention to death penalty cases for years, to the exclusion of other important matters in order to meet Prop 66’s proposed time line. Carrying out death sentences of the 746 inmates currently on death row at a rate that doubles the average annual executions in Texas would take nearly 25 years - and that does not account for new death penalty convictions. The death penalty system’s problems are beyond repair.