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California State Assembly

PUBLIC SAFETY



REGINALD BYRON JONES-SAWYER SR. CHAIR

AGENDA

Tuesday, July 13, 2021 9 a.m. -- State Capitol, Room 4202

Part II

SB 472 (Caballero) - SB 804 (Glazer)

Chief Counsel

Sandy Uribe

Staff Counsel Cheryl Anderson David Billingsley Matthew Fleming

Nikki Moore

Committee Secretary
Elizabeth Potter
Nangha Cuadros

1020 N Ste, Room 111 (916) 319-3744 FAX: (916) 319-3745 Date of Hearing: July 13, 2021 Consultant: Natalia Garcia

ASSEMBLY COMMITTEE ON PUBLIC SAFETY Reginald Byron Jones-Sawyer, Sr., Chair

SB 472 (Caballero) - As Amended May 20, 2021

As Proposed to be Amended in Committee

SUMMARY: Expands the Social Innovation Financing Program to award a new round of grants to five counties to implement proposals to reduce recidivism, makes changes to the program, and extends the sunset date to January 1, 2028. Specifically, **this bill**:

- 1) Requires the Board of State and Community Corrections (BSCC) to solicit social innovation financing proposals from county boards of supervisors, and requires they select five counties to receive grant funding, on or after July 1, 2022, and contingent upon appropriation by the Legislature.
- 2) Specifies that a county that has received prior grant funding remains eligible to receive this new round of grant funding.
- 3) Requires BSCC to consider the diversity of the selected counties in factors including, without limitation, size, demographics, and geography.
- 4) States that each county's grant application shall include specified requirements, with changes to the criteria including:
 - a) Removing the requirement to provide a description of the recruitment or selection process, or both, for participants in the social program;
 - b) Removing the requirement to provide an itemization of all expenses proposed to be reimbursed under the contract; and,
 - c) Adding a description of the ways in which the proposal plans to reduce outcomes disparities for priority populations including racial and ethnic minorities.
- 5) Increases the minimum and maximum grant awards to no less than \$1,000,000 and not more than ten million dollars \$10,000,000 to each county selected for the purposes of entering into a pay for success or social innovation financing contract, with an aggregate amount of total grants awarded not to exceed \$26,000,000.
- 6) Requires each county contract to include all of the existing criteria for contract conditions as specified.
- 7) Allows up to five percent of the funds appropriated to the Social Innovation Fund to be used by BSCC for the administrative costs of administering the grant program.

- 8) Permits up to ten percent of the grant funds to be used by counties for administrative expenses related to the development of the pay for success or social innovation financing contract, and specifies the remainder of the grant must be contributed toward payments, as laid out in the contract.
- 9) Authorizes up to two percent of the funds appropriated to the Social Financing Fund to be used by BSCC to award microgrants to counties to support the development of the proposal, and includes intent language to specify the microgrants aim to incubate new outcome-based contracting partnerships.
- 10) Requires awarded counties to report annually to BSCC on the status of its ongoing social innovation financing program, including accounting of the moneys awarded and the impact of the program on recidivism.
- 11) Extends the repeal date of January 1, 2022 to January 1, 2028.
- 12) Makes technical changes.

EXISTING LAW:

- 1) Defines "social innovation financing contract", also referred to as a "pay for success contract," as a contractual agreement between government, private investors, and service providers, wherein private investors agree to provide financing to service providers to achieve social outcomes, and the government agency agrees to pay a return on investment to the investors if the program's outcomes are achieved by the service provider. (Gov. Code § 97008, subd. (b).)
- 2) Establishes the Social Innovation Financing Program, to be administered by BSCC, aimed to reduce recidivism, through "pay for success" or social innovation financing, including by addressing homelessness, substance use disorder and unemployment among specific demographic groups. (Gov. Code § 97010, subd. (a).)
- 3) Authorizes BSCC to select three counties to receive grant funding based on solicited proposals from county boards of supervisors, which include specified requirements:
 - a) A description of the proposed program;
 - b) A description of the organization's experience in providing the social program;
 - c) A description of the financial stability of the organization;
 - d) An identification of each component of the social program to be provided;
 - e) A description of the manner in which the program will be provided;
 - f) A description of the recruitment or selection process, or both, for participants in the program;

- g) The proposed quantifiable results and performance thresholds upon which success of the program will be measured;
- h) An itemization of all expenses proposed to be reimbursed under the contract;
- i) The amount of matching funds provided by the county;
- j) A description of how the final payments for successful programmatic outcomes will be calculated and structured in the contract; and,
- k) A description of all parties to the proposed contract, including prospective investors and philanthropic foundations. (Gov. Code § 97010, subd. (c).)
- 4) Awards a grant in an amount of not less than \$500,000 and not more \$2,000,000 to each county selected for the purposes of entering into a pay for success or social innovation financing contract, contingent upon appropriation of funds by the Legislature (Gov. Code § 97011, subd. (a).)
- 5) Requires awarded counties' contracts to require criteria, including:
 - a) Payments must be conditioned on specific performance-based outcomes;
 - b) An objective process, which includes performance metrics and a monitoring plan, by which a county-selected independent evaluator will determine whether the performance targets have been achieved;
 - c) A determination by the county that the contract will result in improvements, such as reduction in rearrests, decreasing the number of jail days faced, improved housing placement and stability, or other beneficial impacts to the community; and,
 - d) Awarded counties must match 100 percent of the Social Innovation Financing Program grant awarded to them through other county, federal, private, or philanthropic funds. (Gov. Code, § 97011, subd. (b).)
- 6) Allows up to ten percent of the awarded grant funds to be used by counties for administrative expenses related to the pay for success or social innovation financing contract (Gov. Code, § 97011, subd. (c).)
- 7) Specifies that if a county does not enter into a contract for which the grant was awarded, the county must return all the awarded funds back to BSCC. (Gov. Code, § 97011, subd. (d).)
- 8) Requires each awarded county to report annually to BSCC on the status of its ongoing social innovation financing program, including accounting of the moneys awarded. (Gov. Code, § 97013. subd. (a).)
- 9) Requires BSCC to compile the county reports and submit an executive report to the Governor and the Legislature annually, until the January 1, 2022 repeal date. (Gov. Code, § 97013, subd. (b).)

10) Establishes a repeal date of January 1, 2022. (Gov. Code, § 97015.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) Author's Statement: According to the author, "Most public funding is spent buying services, and policymakers constantly wrestle with which programs to fund. But we often can't predict, in advance, which programs will work best in different contexts; and once money is allocated, it can be difficult to know exactly how well programs worked, and then to calibrate funding to match.

"For the past decade, states and counties have been experimenting with a different approach: instead of buying services with unpredictable (and often unmeasured) outcomes, they are agreeing to pay for outcomes themselves.

"This idea, often called 'Pay for Success,' asks governments to clearly define policy goals, establish a mechanism for measuring progress toward those goals, and set a price for achievement. If effective community organizations succeed in moving the needle on those goals, they can unlock expanded funding opportunities. In some cases, community organizations partner with mission-driven investors to finance the upfront costs of programs.

"California began experimenting with this model through AB 1837, setting up a state-county match which launched 3 projects. SB 472 would expand this approach, partnering with 5 counties to build the next generation of innovations, focused on the intersection of criminal justice and homelessness—building evidence about what works, while ensuring taxpayer money is linked to the results that program achieve.

"Pay for Success approaches strengthen public accountability, while unleashing the entrepreneurialism of the social sector. They build the connective tissue between policymakers and social service delivery systems, to create faster feedback loops and more sophisticated data sharing, and they build better connections between and across agencies. Ultimately, they're a tool to strengthen our social infrastructure. This bill is another step toward reinventing and reinvigorating government from the inside."

- 2) The Board of State and Community Corrections (BSCC): Established in 2012, BSCC is an independent statutory agency that provides leadership to the adult and juvenile criminal justice systems, expertise on Public Safety Realignment issues, a data and information clearinghouse, and technical assistance on a wide range of community corrections issues. (Penal Code sec. 6024-6025). In addition, BSCC provides information of regulations for adult and juvenile detention facilities, conducts regular inspections of those facilities, develops standards for the selection and training of local corrections and probation officers, and administers significant public safety-related grant funding. (BSCC, "About the Board of State and Community Corrections," https://www.bscc.ca.gov/m_bsccboard/).
- 3) Expansion of the Social Innovation Financing Grant Program: AB 1837 (Atkins) Chapter 802, Statutes of 2014, established the Social Innovation Financing Program, better known as the "Pay For Success (PFS) Grant Program," to be administered by BSCC until January 1, 2020. It provided \$5,000,000 in funding through the Recidivism Reduction Fund

to three counties' local PFS projects. PFS projects are funding models that provide governments a collaborative approach in assisting vulnerable populations. As established under AB 1837, the stated purpose of the grant program is to reduce recidivism using evidence-based approaches that may address issues, such as homelessness, substance abuse, and unemployment. (BSCC, *Pay for Success Grant Program: Legislative Report 2017*, p, 1-2. https://www.bscc.ca.gov/wp-content/uploads/PFS-Final-Leg-Report-10-3-17.pdf).

Under the PFS model, government, private investors, and service providers agree on targeted outcomes for the populations identified in their contract. Private investors provide up-front, multi-year operating costs to fund the service providers. If an independent evaluation shows that the program achieved the agreed-upon outcomes, then government makes "success payments" to investors, who may reinvest their returns to further assist in supporting the identified population. If an independent evaluation shows that the program had not achieved the agreed-upon outcomes, the investor does not receive a return on investment. (*Id.* at p. 2.).

In April 2016, BSCC awarded PFS grants to the Counties of Alameda, Los Angeles, and Ventura through a competitive-bid process. Specifically, BSCC awarded \$1,250,000 to Alameda County; \$2,000,000 to Los Angeles County; and, \$1,500,000 to Ventura County. Each county's PFS project began in the fall of 2017. Also, each county contracted with an independent evaluator, who determined whether the project's outcomes are successful and require repayment to the investor. (*Id.* at p. 7.).

The County of Alameda's PFS Project is designed to engage individuals who continued to commit specified realigned felonies. Through peer-based, collaborative, and direct services, Alameda's project has provided key support and services to address chronic unemployment and poverty, substance abuse, housing insecurity, mental and physical health, educational access, and vocational training. The project has been carried out in collaboration with the County Administrator's Office, District Attorney's Office, Sheriff's Office, Probation Department, Health Care Services, Behavioral Health Care Services, Public Defender's Office, Social Services Agency and numerous community-based service providers. (*Id.* at p. 8.).

The County of Los Angeles's PFS Project aims at reducing recidivism and ending homelessness for individuals with mental illness, those with substance use disorder, and those with a history of experiencing homelessness. Los Angeles's project focuses on funding 300 permanent housing slots and providing wrap-around services. The project has been carried out in collaboration with the Los Angeles County Department of Health, Los Angeles County Sheriff's Department, Los Angeles County Chief Executive Office, Corporation for Supportive Housing, Third Sector Capital Partners, and numerous community-based housing and service providers. (*Id.* at p. 7.).

The County of Ventura's PFS Project focuses on reducing the number of rearrests among 4000 individuals deemed medium-to-high risk adult probationers. Ventura's project has offered an integrated community-based set of evidence-based practices to reduce recidivism. The project has been carried out through a public-private partnership with the County of Ventura Executive Office, Probation Department, Public Defender's Office, Interface Children and Family Services, Social Finance, the primary project service provider, and the primary project intermediary. (*Id.* at p. 8.).

According to BSCC's Pay For Success Grant Program: Legislative Report 2020:

- Projects are consistently meeting the performance targets and success payments are regularly being made to investors in accordance with partner agreements;
- All three PFS projects continue to be fully engaged and are providing direct services to participants despite the COVID-19 pandemic challenges occurring in year four;
- Two of the three projects have fully met their targeted number of program participants for the grant period;
- Adjustments made in service delivery to meet the safety needs during the time of COVID-19 are proving to have the potential for long-range benefits such as increased client engagement through virtual platforms and collaboration with partners to expedite traditional processes and remove barriers to services;
- Projects have realized an increase in the number of clients graduating from treatment programs;
- The project has provided 350 permanent supportive housing slots to program participants; and
- Each project's independent evaluator is regularly assessing program data to determine repayment of investors based on successful outcomes achieved and are well positioned to complete a final evaluation following the submission of year-five data. (BSCC, *Pay for Success Grant Program: Legislative Report 2020*, p. 1-2. https://www.bscc.ca.gov/wp-content/uploads/PFS-2020-Leg-Report-FINAL.pdf).

In their 2020 report to the Legislature, BSCC concluded that projects are expected to continue to meet performance objectives that will trigger success payments to investors in the next year. BSCC also concluded it is anticipated that early results regarding the evaluation of outcomes measured after 18 months of participation will also begin to emerge and provide additional insight to the level of longer-term success that may be achieved with the PFS Projects. (*Id.* at p. 23-24.).

- 4) Federal Outcomes Funding Mechanism: The federal Social Impact Partnerships to Pay for Results Act (SIPPRA) developed a similar tool to the social innovation financing program, intended to improve efficiencies of specified social services. Similar to California's PFS projects, through SIPPRA, the federal government will pay for a project only if predetermined project outcomes have been met and validated by an independent evaluator, a system called a "pay for results partnership." Through SIPPRA, a \$100 million pool of matching federal funds for PFS projects are made available. As cited in 2060 of the SSA, 42 U.S. code § 1397N-9, the funds are made available for a 10-year time horizon. (U.S. Department of Treasury, "SIPPRA Legislation," https://home.treasury.gov/services/social-impact-partnerships/sippra-pay-for-results)
- 5) The First 25 Pay For Success Projects in the United States: The Nonprofit Finance Fund, a 501(c)(3) nonprofit aimed at advancing missions and social progress through financing, consulting, partnerships, and knowledge-sharing, reported a comparative analysis of the first 25 PFS projects to launch in the United States. As reported, the average service delivery term for the 25 projects was 4.2 years, with the average initial investment resulting in \$9.7 million for 23 projects that reported their received initial investments. The Pay For Success: The First 25 report provides information on the relevant stakeholders per project, including investors, service providers, and evaluators. The report also states that the project development process is long and resources-intensive, explaining that project development

timelines "ranged from 18 months to three years" and have relied on active participation from all stakeholders in order to reach project launch. (Nonprofit Finance Fund, "What we're about: What we do." https://nff.org/about-us.). (Nonprofit Finance Fund, *Pay For Success: The First 25*, p. 6-8, 54. https://nff.org/report/pay-success-first-25.).

The report concluded that while each project has made a significant contribution to the development of these programs, the results and outcomes varied by each distinct project. From the 14 projects to provide outcome data, 10 projects reported having already made at least one success payment or on track to triggering a success payment. (*Id.* at p. 60-73.).

- 6) Extension of the Repeal Date: As currently written, SB 472 would extend the repeal date of the new round of PFS projects from 5 years, as originally established by AB 1837 (Atkins) Chapter 802, Statutes of 2014, to 10 years. The Committee notes AB 1056 (Atkins) Chapter 802, Statutes of 2015 extended the original repeal date established in AB 1837 by 2 years, totaling 7 years for the projects. The author's office and bill sponsor note the project development process has begun to decline from 18 months to three years to 12 months to 18 months. The Committee also notes that the average service delivery term was 4.2 years for the first 25 PFS projects in the United States. Given the project development process and average service delivery term, the author has agreed to scale back the repeal date to January 1, 2028, rather than extending it by a decade.
- 7) **Argument in Support**: According to the bill's sponsor, *Social Finance*, "SB 472... continues the critical work of the Pay for Success Grant Program by extending its sunset date and authorizing grant awards for five additional counties to implement successful antirecidivism policies.

"Over the last decade, California has taken a number of steps to reform the state's corrections process. Key reforms include the 2011 public safety realignment which shifted the responsibility and supervision of low-level offenders from the state to county level which, and Proposition 47 passed by voters in 2014 which reclassified certain offenses from felonies to misdemeanors. While these reforms have been essential to reducing California's prison population, California's recidivism rates continue to remain high. According the Public Policy Institute of California, recidivism rates for felony offenders is approximately 66%."

8) Prior Legislation:

- a) AB 1837 (Atkins), Chapter 802, Statutes of 2014, enacted, until January 1, 2020, the initial Social Innovation Financing Program, to be administered by BSCC, and authorized BSCC to award three counties grants in an amount of not less than \$300,000 and not more than \$2,000,000, up to a maximum of \$5,000,000.
- b) AB 1056 (Atkins), Chapter 802, Statutes of 2015, extended the Social Innovation Financing Program's sunset date to January 1, 2022.
- c) AB 862 (Maienschein), of the 2017-2018 Legislative Session, would have extended the Social Innovation Financing Program sunset repeal date, for BSCC to award a new round of awards to three counties, to January 1, 2025. This bill was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Social Finance (Sponsor)
Bay Area Regional Health Inequity Initiative
California Consortium of Addiction Programs and Professionals
Center for Employment Opportunities
Impact Justice
Interface Children & Family Services
Public Health Institute
REDF
Third Sector

Opposition

None

Analysis Prepared by: Natalia Garcia / PUB. S. / (916) 319-3744

Amended Mock-up for 2021-2022 SB-472 (Caballero (S))

Mock-up based on Version Number 98 - Amended Senate 5/20/21 Submitted by: Sandy Uribe, Assembly Public Safety Committee

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 97008 of the Government Code is amended to read:

97008. For purposes of this title, the following definitions apply:

- (a) "Board" means the Board of State and Community Corrections.
- (b) "Social innovation financing contract," which may also be known and referred to as a "pay for success contract," refers to a contractual agreement between government agencies, private investors, intermediaries, and service providers pursuant to which private investors agree to provide financing to service providers to achieve social outcomes agreed upon in advance and the government agency agrees to pay investors commensurate with successful programmatic outcomes achieved by the service provider.
- SEC. 2. Section 97009 of the Government Code is amended to read:
- **97009.** (a) It is the intent of the Legislature that as part of the package to reduce recidivism and the intersection of homelessness and criminal justice in California, the concept of "pay for success" or social innovation financing should be included to take advantage of available philanthropic and private investment.
- (b) The Legislature hereby declares that a variety of approaches have been shown to be successful in reducing recidivism, including addressing homelessness, substance use disorder and unemployment among specific demographic groups.
- SEC. 3. Section 97010.5 is added to the Government Code, to read:
- **97010.5.** (a) On or after July 1, 2022, and contingent upon an appropriation by the Legislature in the annual Budget Act or another statute for the purposes described in Section 97011.5, the board shall solicit proposals for social innovation financing from county boards of supervisors and shall select five counties to receive grant funding.

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- (b) A county that has received grant funding pursuant to Section 97010 is not ineligible to receive funding pursuant to this section.
- (c) Before awarding a grant pursuant to this section, the board shall evaluate the quality of the proposal for which the grant is to be awarded.
- (d) In selecting the counties to receive grants, the board shall consider the diversity of the selected counties in factors including, without limitation, size, demographics, and geography.
- (e) No more than one award will be issued to any county in response to each solicitation.
- (f) At a minimum, each application for a grant shall include all of the following:
- (1) A description of the proposed social program.
- (2) A description of the organization's experience in providing the proposed social program.
- (3) A description of the financial stability of the organization.
- (4) An identification of each component of the social program to be provided.
- (5) A description of the manner in which the social program will be provided.
- (6) The proposed quantifiable results upon which success of the social program will be measured.
- (7) An estimated budget for service delivery under the contract.
- (8) The amount of matching funds provided by the county.
- (9) An overview of all potential parties to the proposed contract, and key supporters.
- (10) A description of the ways in which the proposal plans to reduce outcomes disparities for priority populations including racial and ethnic minorities.
- SEC. 4. Section 97011.5 is added to the Government Code, to read:
- 97011.5. (a) Upon appropriation of funds by the Legislature for deposit in the Social Innovation Fund, which is hereby created in the State Treasury, for the purposes of this section, the board shall award a grant in an amount of not less than one million dollars (\$1,000,000) and not more than ten million dollars (\$10,000,000) to each county selected pursuant to Section 97010.5 for the purposes of entering into a pay for success or social innovation financing contract. The total amount of the grants awarded pursuant to this section shall not exceed twenty-six million dollars (\$26,000,000). Any unused state moneys shall revert to the General Fund.
- (b) Each county contract described in subdivision (a) shall include all of the following:

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- (1) A requirement that the payment be conditioned on specific outcomes based upon defined performance targets.
- (2) An objective process by which an independent evaluator, selected by the county, will determine whether the performance targets have been achieved. This process shall include defined performance metrics and a monitoring plan.
- (3) A calculation of the amount and timing of payments that would be earned during each year of the agreement if performance targets are achieved as determined by the independent evaluator.
- (4) A determination by the county that the contract will result in significant performance improvements including reduction in rearrests, an increase in the number of jail days avoided, improved housing placement and stability, or other beneficial impacts to the community, if the performance targets are achieved.
- (5) A requirement that an amount equal to a minimum of 100 percent of the Social Innovation Financing Program grant awarded to the county be matched by other county, federal, private, or philanthropic funds. The board may adopt regulations allowing in-kind contributions in lieu of monetary contributions for this purpose.
- (6) A clear description of the recruitment and selection process, as applicable, for participants in the social program.
- (c) (1) Up to 5 percent of the funds appropriated to the Social Innovation Fund for the purposes of this section may be used by the board for the administrative costs of administering the grant program.
- (2) Up to 10 percent of the grant funds awarded pursuant to subdivision (a) may be used by the counties for administrative expenses related to the development of the pay for success or social innovation financing contract. The remainder of the grant shall be contributed toward payments, as stipulated in the contract.
- (d) If, after receiving a grant pursuant to subdivision (a), a county does not enter into a contract for which the grant was awarded, the county shall return all moneys awarded by the board pursuant to this section, to the state.
- (e) (1) Up to 2 percent of the funds appropriated by the Legislature for purposes of this section may be used by the board to award microgrants to counties to support the development of the proposal described in Section 97010.5.
- (2) The intent of the microgrant is to incubate new outcome-based contracting partnerships.
- (3) A county board of supervisors interested in being considered for a microgrant pursuant to this subdivision shall submit a brief synopsis of their project including all of the following:

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- (A) A summary of the challenges targeted by the project.
- (B) A list of critical project partners.
- (C) A description of the analysis to be conducted during the proposal development process and the source of data to be used in that analysis.
- SEC. 5. Section 97013.5 is added to the Government Code, to read:
- **97013.5.** (a) Each county receiving an award pursuant to subdivision (a) of Section 97010.5 shall report annually to the board on the status of its ongoing social innovation financing program. The report shall also contain both of the following:
- (1) An accounting of the moneys awarded.
- (2) The impact of the program on recidivism, using a standard definition prescribed by the board for the purpose of this report. The board may use an existing definition of recidivism previously developed or utilized by the board.
- (b) The board shall compile the county reports and submit a summary report to the Governor and Legislature annually.
- (c) In preparing the reports required by this section, the board is encouraged to convene representatives from each participating county to discuss progress and share experiences with the board and other participating counties.
- (d) A report made pursuant to this section shall be made in accordance with the requirements of Section 9795.
- SEC. 6. Section 97015 of the Government Code is amended to read:
- 97015. This title shall remain in effect only until January 1, 2031 2028, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2031 2028, deletes or extends that date.

Date of Hearing: July 13, 2021 Counsel: Nikki Moore

ASSEMBLY COMMITTEE ON PUBLIC SAFETY Reginald Byron Jones-Sawyer, Sr., Chair

SB 827 (Committee on Public Safety) - As Amended June 14, 2021

As Proposed to be Amended in Committee

SUMMARY: Makes a number of technical changes and non-controversial changes to the law. Specifically, **this bill**:

- 1) Provides that AdvancED and Cognia are qualifying education programs for peace officers.
- 2) Repeals a provision of law criminalizing the abandonment of an animal, as specified, and allowing its seizure.
- 3) Repeals the provision of law that allows a juvenile offender who was direct filed upon in adult court and then ultimately convicted of something not eligible for direct file to request that their sentencing/disposition be sent back to juvenile court.
- 4) Deletes the prohibition on possession of a nunchaku and provides that the definition of billy, blackjack or slugshot does not include a nunchaku.
- 5) Streamlines the process for a youth offender to be placed in the youth offender program at the Department of Corrections.
- 6) Makes a number of technical amendments to update rules and regulations governing the Board of Parole Hearings.

EXISTING LAW:

- 1) Bans the possession of nunchaku. (Pen. Code, §§ 22010, 22015, 22090.)
- 2) Creates a Youth Offender Program at the Department of Corrections. (Pen. Code, § 2905.)
- 3) Provides for the seizure of an animal being mistreated in a public place. (Pen. Code, § 597f.)
- 4) Provides that a person under 18 years of age prosecuted for a criminal offense that is found to be a fit and proper subject to be dealt with under the juvenile court law may, upon subsequent conviction for any criminal offense, be subject to the same sentence as an adult convicted of the identical offense. (Pen. Code, § 1170.17.)
- 5) Provides that where the conviction is for the type of offense which, in combination with the person's age at the time the offense was committed, makes the person eligible for transfer to a court of criminal jurisdiction, pursuant to a rebuttable presumption that the person is not a fit and proper subject to be dealt with under the juvenile court law, and the prosecution for

the offense could not lawfully be initiated in a court of criminal jurisdiction,

- 6) Provides that a person may be committed to the Youth Authority only to the extent the person meets the eligibility criteria. (Pen. Code, § 1170.19, subd. (a)(1).)
- 7) Provides that no person shall be housed in any facility under the jurisdiction of the Department of Corrections, if the person is under the age of 16 years. (Pen. Code, § 1170.19, subd. (a)(2).)
- 8) Authorizes a person currently convicted of a specified offense who would have not been guilty of an offense, or guilty of a lesser offense, under the Control, Regulate and Tax Adult Use of Marijuana Act,, if the act had been in effect at the time of the conviction, may petition or apply to have the sentence reduced, or if they have completed their sentence, to have the conviction dismissed and the record sealed in accordance with the act.

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Purpose of This Bill**: This is the annual omnibus bill. In past years, the omnibus bill has been introduced by all members of the Committee on Public Safety. This bill is similar to the ones introduced as Committee bills in the past, in that it has been introduced with the following understanding:
 - a) The bill's provisions make only technical or minor substantive but non-controversial changes to the law; and,
 - b) There is no opposition by any member of the Legislature or recognized group to the proposal.

This procedure has allowed for introduction of fewer minor bills and has saved the Legislature time and expense over the years.

2) Changes to Sections Related to Board of Parole Hearings (BPH): CDCR believes this proposal is necessary to eliminate conflicts in the law and avoid legal challenges to administrative actions taken by the BPH and its executive officer during the normal course of business.

Penal Code section 5076.1: When BPH performs its functions by en banc meetings, under public or executive sessions, existing law requires BPH to decide matters of general policy with at least seven members present, and no action is valid without a majority vote of those present. (Pen. Code, § 5076.1, subd. (a).) This proposal would amend Penal Code section 5076.1, subd. (a) and (b) to state that BPH decisions are to be made by a majority of commissioners holding office on the date a matter is heard by the BPH, which is consistent with Penal Code section 3041, subd. (e). This proposal would also amend Penal Code section 5076.1, subdivision (c) to remove the process of BPH referring a tie vote to a randomly selected committee given that BPH currently refers these matters to the full BPH sitting en

banc as required by Penal Code section 3041(e). Third, this proposal would amend Penal Code section 5076.1, subd. (d) to conform with Penal Code section 1170, subd. (e) by eliminating BPH's authority to recommend a recall of a sentence under the compassionate release process.

Penal Code section 5076.2: This proposal would amend Penal Code section 5076.2, subds. (a), (b), and (c) to change the reference of "Board of Prison Terms" to reflect the current title of the "Board of Parole Hearings." In addition, this proposal would amend Penal Code section 5076.2, subd. (c) to replace the term "chairperson" with "executive officer" which would be consistent with our proposed amendment to Penal Code section 5075 noted above. These amendments are needed to ensure that the BPH and its executive officer have the ability to promulgate rules and regulations.

Penal Code section 5076.3: This proposal would amend Penal Code section 5076.3 to replace the term "Chairman" with "executive officer" and "Board of Prison Terms" with "Board of Parole Hearings" for the purpose of maintaining consistency within the statutes. In addition, this amendment would clarify that the BPH's executive officer has the administrative authority to issue subpoenas.

- 3) Nunchaku: This bill removes nunchucks, or "nunchaku," from the list of generally prohibited weapons.
 - a) History of Nunchaku Ban: Banning of nunchaku in California was spurred by media reporting and political rhetoric following the popularization of Kung Fu and Bruce Lee, who first used nunchucks on film in *Green Hornet* in 1966, and into the early 1970s. By 1973, The New York Times was writing that nunchaku were "turning up in the hands of youths in Los Angeles, San Francisco and San Diego," and in November 1973, the California attorney general cited a Newsweek article calling nunchakus "killer sticks" to discuss their danger. (Mihir Zaveri, *Nunchuck Bans Have Fallen in New York and Arizona. Will Others Follow?*, New York Times, May 21, 2019, available at https://www.nytimes.com/2019/05/21/us/nunchuck-ban.html.)

In 1974, the California Legislature passed the strict ban on possession and use of nunchaku, one of only four states to do so. "The ban on nunchaku arose out of a concern that, as a result of the rising popularity 'of "Kung Fu" movies and shows,' 'various circles of the state's youth'—including 'muggers and street gangs'—were 'widely' using nunchaku to cause 'many serious injuries." (*Maloney v. Singas*, 351 F. Supp. 3d 222, 228 (E.D.N.Y. 2018.)

b) Second Amendment Jurisprudence Applied to Nunchaku: The Second Amendment extends a constitutional right of possession "to all instruments that constitute bearable arms" — not just firearms. In 2018, New York's law prohibiting the possession of nunchakus was struck down, when a federal district court said that nunchaku fall within the ambit of the Second Amendment, and that the total ban on possessing and using nunchakus was unconstitutional. (*Maloney v. Singas*, 351 F. Supp. 3d 222, 228 (E.D.N.Y. 2018).)

- c) The Art of Kung Fu: There are many lawful reasons to possess nunchaku, though California bans them all. California essentially prohibits their use for self-defense, and in connection with the practice of karate, taekwondo, aikido, and Eskrima in a person's own home. While "the true ninja is a master of all things," in California it is largely unlawful to practice even just "a little 'chucking every now and then." (*Teenage Mutant Ninja Turtles II: The Secret of the Ooze*, (1991).) The law's broad prohibition also means that all kinds of expressive uses of nunchaku are prohibited such as displaying them as art, using them as a prop in a high school play, or including them as part of a Halloween costume.
- d) Minors: As has been noted by the Committee on the Revision of the Penal Code, many California cases involving nunchaku are prosecuted based only on possession, and these cases often involve a minor. (See *In re K.C.* (2011) Cal. App. Unpub. LEXIS 6287 (nunchaku found in minor's room during police search); *In re David L.* (2002) Cal. App. Unpub. LEXIS 9606 (nunchaku found in minor's room during police search); *In re Angel J.* (1992) 9 Cal. App. 4th 1096 (minor "playing" with nunchaku observed by police and minor was prosecuted); *In re Michael S.* (1983) 141 Cal. App. 3d 814 (minor searched for being "borderline combative had nunchaku in pocket).)
- 4) **Penal Code Sec. 1170.17:** Penal Code section 1170.17 allows a juvenile offender whose case was directly filed in adult court and then ultimately convicted of something not eligible for direct file to request that his sentencing/disposition be sent back to juvenile court. However, the statute is now obsolete because of Proposition 57 but it hasn't been repealed. To make the law consistent with Proposition 57, the legislature enacted a new statute to allow something similar in Welfare and Institutions Code section 707.5, but didn't also repeal the obsolete statute (See AB 1423 (Wicks) Chapter 583, Statutes of 2019).
- 5) Youth Offenders: This proposal amends Pen. Code Sec. 2905 to streamline the placement process for the Youth Offender Program (YOP) at the California Department of Corrections and Rehabilitation (CDCR). These amendments would allow any classification committee—not just an Institutional Classification Committee (ICC)—to place an eligible youth offender in the YOP. CDCR currently utilizes multiple classification committee types, such as the Initial Classification Committee; Unit Classification Committee (UCC); Camp Classification Committee (CAMP); Institution Classification Committee (ICC); Departmental Review Board (DRB); Security Threat Group (STG UCC); Reception Center (CCII Approval); and Reception Center Extended Stay Review. Some are specifically designated for the General Population institutions and some specifically designated for the Reception Center institutions, all with various functions.

Whereas the UCC is the most common type of committee at the General Population institutions, ICCs are used most for complex cases. The primary function of ICCs are to recommend transfers of inmates; act on cases referred by lower committees; review requests for meritorious sentence reductions; and make referrals and recommendations through the Chief of the Classification Services Unit (CSU) at the Division of Adult Institutions (DAI) for cases requiring DRB decisions. The ICC is the highest level of committee at the institution. Only an ICC may refer cases to the Classification Staff Representative for placement/retention in segregated housing, such as the Administrative Segregation Unit (ASU), Security Housing Unit (SHU), Psychiatric Services Unit (PSU), and Non-Disciplinary Segregation (NDS).

For all ICC's the composition consists of: Chairperson (Warden, Regional Parole Administrator, Chief Deputy Warden or Deputy Regional Parole Administrator); Alternate Chairperson (Correctional Administrator or Parole Administrator I); Psychiatrist or Physician; Facility Captain; Recorder (Correctional Counselor III, Parole Agent III, Correctional Counselor II, or Parole Agent II); Assignment Lieutenant; Educational or Vocational representative; and other staff as required.

This proposal will revise the placement framework so that CDCR's highest level of classification committee is not needed in order for a youth offender to be placed into the YOP. The youth offender population is predominately of a lower security level and does not always need a YOP ICC for special classification consideration. This is consistent with the steps being taken by CDCR to place youth offenders in the YOP whenever they satisfy eligibility criteria. Given the high likelihood of placement, and clear exclusionary criteria (serious disciplinary behavior within the past 12 months), it is not necessary—and is administratively wasteful—to require ICC to consider every youth offender during reception center processing. For example, even if there is disciplinary behavior that would automatically disqualify an individual from YOP placement, thus negating the need for review by an ICC, current statue requires that the ICC still convene. Additionally, the number of CDCR reception centers was recently reduced from five to three statewide. The result is increased workload for the remaining reception centers, which can lead to longer lengths of-stay and processing times without commensurate benefit. Eliminating YOP ICC review of every youth offender will save staff time and resources, remove unnecessary bureaucracy and support faster reception center processing for all youth offenders. This change will improve administrative efficiency, while expediting the placement of youth offenders into YOP from reception centers.

- 6) Amendments to Penal Code Sec. 422.77: In 2018, amendments to the Bane Act (AB 3250 (Committee on Judiciary) Chapter 776, Statutes of 2018.) created a new subdivision (a) and adjusted all other subdivisions to their next letter. However, the references to the various subdivisions within Pen. Code Sec. 422.77 were not corrected to reflect the new subdivision letters. This changes the references to the new subdivision letters.
- 7) **Deletion of Penal Code Sec. 597f:** The California Court of Appeals in *Carrera v. Bertaini*, (1976) 63 Cal.App.3d 721 held that paragraph (a) does not contain sufficient due process because there is no requirement for a postseizure hearing. Since this decision, law enforcement and prosecutors no longer use Section 597f. Instead they rely on Section 597.1, which contains the remaining provisions in Section 597f and provides for a postseizure hearing. Therefore, there is no reason for Section 597f to remain on the books. This section was actually in the omnibus bill in 2019, but was chaptered out by another bill.

8) Prior Legislation:

- a) SB 781 (Committee on Public Safety), Chapter 256, Statutes of 2019, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.
- b) SB 1494 (Committee on Public Safety), Chapter 423, Statutes of 2018, made technical and corrective changes, as well as non-controversial substantive changes, to various code

section relating to criminal justice laws.

c) SB 811 (Committee on Public Safety), Chapter 269, Statutes of 2017, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws. c) SB 1474 (Committee on Public Safety), Chapter 59, Statutes of 2016, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws. d) SB 795 (Committee on Public Safety), Chapter 499, Statutes of 2015, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

REGISTERED SUPPORT / OPPOSITION:

Support

None

Opposition

None

Analysis Prepared by: Nikki Moore / PUB. S. / (916) 319-3744

Amended Mock-up for 2021-2022 SB-827 (Committee on Public Safety (S) - (Senators Bradford (Chair), Kamlager, Ochoa Bogh, Skinner, and Wiener))

Mock-up based on Version Number 97 - Amended Assembly 6/14/21 Submitted by: Nikki Moore, Assembly Public Safety

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1031 of the Government Code is amended to read:

- 1031. Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:
- (a) Be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship, except as provided in Section 2267 of the Vehicle Code.
- (b) Be at least 18 years of age.
- (c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record.
- (d) Be of good moral character, as determined by a thorough background investigation.
- (e) Be a high school graduate, pass the General Education Development Test or other high school equivalency test approved by the State Department of Education that indicates high school graduation level, pass the California High School Proficiency Examination, or have attained a two-year, four-year, or advanced degree from an accredited college or university. The high school shall be either a United States public school, an accredited United States Department of Defense high school, or an accredited or approved public or nonpublic high school. Any accreditation or approval required by this subdivision shall be from a state or local government educational agency using local or state government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in AdvancED or Cognia, an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFNSSAA).

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- (f) Be found to be free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer.
- (1) Physical condition shall be evaluated by a licensed physician and surgeon.
- (2) Emotional and mental condition shall be evaluated by either of the following:
- (A) A physician and surgeon who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program.
- (B) A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued postdoctorate.

The physician and surgeon or psychologist shall also have met any applicable education and training procedures set forth by the Commission on Peace Officer Standards and Training designed for the conduct of preemployment psychological screening of peace officers.

- (g) This section shall not be construed to preclude the adoption of additional or higher standards, including age.
- SEC. 2. Section 11361.8 of the Health and Safety Code is amended to read:
- 11361.8. (a) A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense, or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in their case to request resentencing or dismissal in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.
- (b) Upon receiving a petition under subdivision (a), the court shall presume the petitioner satisfies the criteria in subdivision (a) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subdivision (a), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.
- (1) In exercising its discretion, the court may consider, but shall not be limited to evidence provided for in subdivision (b) of Section 1170.18 of the Penal Code.

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- (2) As used in this section, "unreasonable risk of danger to public safety" has the same meaning as provided in subdivision (c) of Section 1170.18 of the Penal Code.
- (c) A person who is serving a sentence and is resentenced pursuant to subdivision (b) shall be given credit for any time already served and shall be subject to supervision for one year following completion of their time in custody or shall be subject to whatever supervision time they would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, as part of its resentencing order, releases the person from supervision. Such person is subject to parole supervision under Section 3000.08 of the Penal Code or postrelease community supervision under subdivision (a) of Section 3451 of the Penal Code by the designated agency and the jurisdiction of the court in the county in which the offender is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke supervision and impose a term of custody.
- (d) Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.
- (e) A person who has completed their sentence whether by trial or open or negotiated plea, who would not have been guilty of the conviction offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in their case to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as a misdemeanor or infraction in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.
- (f) The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e), the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the Control, Regulate and Tax Adult Use of Marijuana Act.
- (g) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (e).
- (h) Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or infraction under subdivision (f) shall be considered a misdemeanor or infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as an infraction under subdivision (f) shall be considered an infraction for all purposes.
- (i) If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.

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- (j) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.
- (k) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of the Control, Regulate and Tax Adult Use of Marijuana Act.
- (l) A resentencing hearing ordered under the Control, Regulate and Tax Adult Use of Marijuana Act shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy's Law).
- (m) The provisions of this section shall apply equally to juvenile delinquency adjudications and dispositions under Section 602 of the Welfare and Institutions Code if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act.
- (n) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.
- SEC. 3. Section 422.77 of the Penal Code is amended to read:
- **422.77.** (a) Any willful and knowing violation of any order issued pursuant to subdivision (b) or (c) of Section 52.1 of the Civil Code shall be a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.
- (b) A person who has previously been convicted one or more times of violating an order issued pursuant to subdivision (b) or (c) of Section 52.1 of the Civil Code upon charges separately brought and tried shall be imprisoned in the county jail for not more than one year. Subject to the discretion of the court, the prosecution shall have the opportunity to present witnesses and relevant evidence at the time of the sentencing of a defendant pursuant to this subdivision.
- (c) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to Section 52.1 of the Civil Code.
- (d) The court may order a defendant who is convicted of a hate crime to perform a minimum of community service, not to exceed 400 hours, to be performed over a period not to exceed 350 days, during a time other than their hours of employment or school attendance.
- SEC. 4. Section 597f of the Penal Code is repealed.
- SEC. 5. Section 1170.17 of the Penal Code is repealed.
- SEC. 6. Section 1170.19 of the Penal Code is repealed.

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SEC. 7. Section 1203.01 of the Penal Code is amended to read:

- 1203.01. (a) Immediately after judgment has been pronounced, the judge and the district attorney, respectively, may cause to be filed with the clerk of the court a brief statement of their views respecting the person convicted or sentenced and the crime committed, together with any reports the probation officer may have filed relative to the prisoner. The judge and district attorney shall cause those statements to be filed if no probation officer's report has been filed. The attorney for the defendant and the law enforcement agency that investigated the case may likewise file with the clerk of the court statements of their views respecting the defendant and the crime of which they were convicted. Immediately after the filing of those statements and reports, the clerk of the court shall mail a copy thereof, certified by that clerk, with postage prepaid, addressed to the Department of Corrections and Rehabilitation at the prison or other institution to which the person convicted is delivered. The clerk shall also mail a copy of any statement submitted by the court, district attorney, or law enforcement agency, pursuant to this section, with postage prepaid, addressed to the attorney for the defendant, if any, and to the defendant, in care of the Department of Corrections and Rehabilitation, and a copy of any statement submitted by the attorney for the defendant, with postage prepaid, shall be mailed to the district attorney.
- (b) (1) In all cases in which the judgment imposed includes a sentence of death or an indeterminate term with or without the possibility of parole, the clerk shall, within 60 days after judgment has been pronounced, mail with postage prepaid, to the prison or other institution to which the person convicted is delivered, a copy of the charging documents, a copy of waiver and plea forms, if any, the transcript of the proceedings at the time of the defendant's guilty or nolo contendere plea, if the defendant pleaded guilty or nolo contendere, and the transcript of the proceedings at the time of sentencing.
- (2) In all other cases not described in paragraph (1), the clerk shall mail with postage prepaid, to the prison or other institution to which the person convicted is delivered, a copy of the charging documents, a copy of the waiver and plea forms, if any, and upon written request by the Department of Corrections and Rehabilitation or by an inmate, or by their counsel, for, among other purposes on a particular case, appeals, review of custody credits and release dates, and restitution orders, the transcript of the proceedings at the time of the defendant's guilty or nolo contendere plea, if the defendant pleaded guilty or nolo contendere, and the transcript of the proceedings at the time of sentencing.
- (c) With the consent of the recipient expressed in writing, or orally on the record, the clerk of the court may deliver the documents, or the data contained in the documents, described in subdivisions (a) and (b) by electronic means rather than by mail if the recipient is not the person convicted.

SEC. 8. Section 1203.099 of the Penal Code is amended to read:

1203.099. (a) The Counties of Napa, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, and Yolo may offer a program for individuals convicted of domestic violence that does not comply

Nikki Moore Assembly Committee on Public Safety 07/09/2021 Page 5 of 43 with the requirement of the batterer's program in Sections 1203.097 and 1203.098 if the program meets all of the following conditions:

- (1) The county develops the program in consultation with the domestic violence service providers and other relevant community partners.
- (2) The county performs a risk and needs assessment utilizing an assessment demonstrated to be appropriate for domestic violence offenders for each offender entering the program.
- (3) The offender's treatment within the program is based on the findings of the risk and needs assessment.
- (4) The program includes components which are evidence-based or promising practices.
- (5) The program has a comprehensive written curriculum that informs the operations of the program and outlines the treatment and intervention modalities.
- (6) The offender's treatment within the program is for not less than one year in length, unless an alternative length is established by a validated risk and needs assessment completed by the probation department or an organization approved by the probation department.
- (7) The county collects all of the following data for participants in the program:
- (A) The offender's demographic information, including age, gender, race, ethnicity, marital status, familial status, and employment status.
- (B) The offender's criminal history.
- (C) The offender's risk level as determined by the risk and needs assessment.
- (D) The treatment provided to the offender during the program and if the offender completed that treatment.
- (E) The offender's outcome at the time of program completion, and six months after completion, including subsequent restraining order violations, arrests and convictions, and feedback provided by the victim if the victim desires to participate.
- (8) The county reports all of the following information annually to the Legislature:
- (A) The risk and needs assessment tool used for the program.
- (B) The curriculum used by each program.
- (C) The number of participants with a program length other than one year, and the alternative program lengths used.

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- (D) Individual data on the number of offenders participating in the program.
- (E) Individual data for the items described in paragraph (7).
- (b) Offenders who complete a program described in subdivision (a) shall be deemed to have met the batterer's program requirements set forth in Section 1203.097.
- (c) As used in this section, the following definitions shall apply:
- (1) "Evidence-based program or practice" means a program or practice that has a high level of research indicating its effectiveness, determined as a result of multiple rigorous evaluations including randomized controlled trials and evaluations that incorporate strong comparison group designs, or a single large multisite randomized study, and, typically, has specified procedures that allow for successful replication.
- (2) "Promising program or practice" means a program or practice that has some research demonstrating its effectiveness but does not meet the full criteria for an evidence-based designation.
- (d) A report to be submitted pursuant to paragraph (8) of subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.
- (e) This section shall become operative on July 1, 2019.
- (f) This section shall remain in effect only until July 1, 2023, and as of that date is repealed.
- SEC. 9. Section 1203.4b of the Penal Code is amended to read:
- **1203.4b.** (a) (1) If a defendant successfully participated in the California Conservation Camp program as an incarcerated individual hand crew member, as determined by the Secretary of the Department of Corrections and Rehabilitation, or successfully participated as a member of a county incarcerated individual hand crew, as determined by the appropriate county authority, and has been released from custody, the defendant is eligible for relief pursuant to this section, except that incarcerated individuals who have been convicted of any of the following crimes are automatically ineligible for relief pursuant to this section:
- (A) Murder.
- (B) Kidnapping.
- (C) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (D) Lewd acts on a child under 14 years of age, as defined in Section 288.

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- (E) Any felony punishable by death or imprisonment in the state prison for life.
- (F) Any sex offense requiring registration pursuant to Section 290.
- (G) Escape from a secure perimeter within the previous 10 years.
- (H) Arson.
- (2) Any denial of relief pursuant to this section shall be without prejudice.
- (3) For purposes of this subdivision, successful participation in a conservation camp program and successful participation as a member of a county incarcerated individual hand crew, as determined by the appropriate county authority, means the incarcerated individual adequately performed their duties without any conduct that warranted removal from the program.
- (b) (1) The defendant may file a petition for relief with the court in the county where the defendant was sentenced. The court shall provide a copy of the petition to the secretary, or, in the case of a county incarcerated individual hand crew member, the appropriate county authority.
- (2) If the secretary or appropriate county authority certifies to the court that the defendant successfully participated in the incarcerated individual conservation camp program, or successfully participated as a member of a county incarcerated individual hand crew, as determined by the appropriate county authority, as specified in subdivision (a), and has been released from custody, the court, in its discretion and in the interests of justice, may issue an order pursuant to subdivision (c).
- (3) To be eligible for relief pursuant to this section, the defendant is not required to complete the term of their probation, parole, or supervised release. Notwithstanding any other law, the court, in providing relief pursuant to this section, shall order early termination of probation, parole, or supervised release if the court determines that the defendant has not violated any terms or conditions of probation, parole, or supervised release prior to, and during the pendency of, the petition for relief pursuant to this section.
- (4) All convictions for which the defendant is serving a sentence at the time the defendant successfully participates in a program as specified in subdivision (a) are subject to relief pursuant to this section, except that incarcerated individuals who have been convicted of any of the crimes listed in paragraph (1) of subdivision (a) are automatically ineligible for relief pursuant to this section.
- (5) (A) A defendant who is granted an order pursuant to this section shall not be required to disclose the conviction on an application for licensure by any state or local agency.

- (B) This paragraph does not apply to an application for licensure by the Commission on Teacher Credentialing, a position as a peace officer, public office, or for contracting with the California State Lottery Commission.
- (c) (1) If the requirements of this section are met, the court, in its discretion and in the interest of justice, may permit the defendant to withdraw the plea of guilty or plea of nolo contendere and enter a plea of not guilty, or, if the defendant has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty, and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and the defendant shall thereafter be released from all penalties and disabilities resulting from the offense of which the defendant has been convicted, except as provided in Section 13555 of the Vehicle Code.
- (2) The relief available pursuant to this section shall not be granted if the defendant is currently charged with the commission of any other offense.
- (3) The defendant may make the application and change of plea in person or by attorney.
- (d) Relief granted pursuant to this section is subject to the following conditions:
- (1) In any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the accusation or information had not been dismissed.
- (2) The order shall state, and the defendant shall be informed, that the order does not relieve the defendant of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for licensure by the Commission on Teacher Credentialing, a peace officer, public office, or for contracting with the California State Lottery Commission.
- (3) Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in the person's custody or control any firearm or prevent their conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.
- (4) Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.
- (e) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief.
- (2) It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.
- (f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

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SEC. 10. Section 1485.55 of the Penal Code is amended to read:

- 1485.55. (a) In a contested proceeding, if a court has granted a writ of habeas corpus or when, pursuant to Section 1473.6, the court vacates a judgment, and if the court has found that the person is factually innocent, that finding shall be binding on the California Victim Compensation Board for a claim presented to the board, and upon application by the person, the board shall, without a hearing, recommend to the Legislature that an appropriation be made and the claim paid pursuant to Section 4904.
- (b) In a contested or uncontested proceeding, if a court has granted a writ of habeas corpus or vacated a judgment pursuant to Section 1473.6 or paragraph (2) of subdivision (a) of Section 1473.7, the person may move for a finding of factual innocence by a preponderance of the evidence that the crime with which they were charged was either not committed at all or, if committed, was not committed by the petitioner.
- (c) If a court makes a finding that the petitioner has proven their factual innocence by a preponderance of the evidence pursuant to subdivision (b), the board shall, without a hearing, recommend to the Legislature that an appropriation be made and any claim filed shall be paid pursuant to Section 4904.
- (d) A presumption does not exist in any other proceeding for failure to make a motion or obtain a favorable ruling pursuant to subdivision (b).
- (e) If a federal court, after granting a writ of habeas corpus, pursuant to a nonstatutory motion or request, finds a petitioner factually innocent by no less than a preponderance of the evidence that the crime with which they were charged was either not committed at all or, if committed, was not committed by the petitioner, the board shall, without a hearing, recommend to the Legislature that an appropriation be made and any claim filed shall be paid pursuant to Section 4904.
- **SEC. 11.** Section 2603 of the Penal Code, as amended by Section 101 of Chapter 423 of the Statutes of 2018, is amended to read:
- 2603. (a) Except as provided in subdivision (b), an inmate confined in a county jail shall not be administered any psychiatric medication without their prior informed consent.
- (b) If a psychiatrist determines that an inmate should be treated with psychiatric medication, but the inmate does not consent, the inmate may be involuntarily treated with the medication. Treatment may be given on either a nonemergency basis as provided in subdivision (c), or on an emergency or interim basis as provided in subdivision (d).
- (c) A county department of mental health, or other designated county department, may administer involuntary medication on a nonemergency basis only if all of the following conditions have been met:

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- (1) A psychiatrist or psychologist has determined that the inmate has a serious mental disorder.
- (2) A psychiatrist or psychologist has determined that, as a result of that mental disorder, the inmate is gravely disabled and does not have the capacity to refuse treatment with psychiatric medications, or is a danger to self or others.
- (3) A psychiatrist has prescribed one or more psychiatric medications for the treatment of the inmate's disorder, has considered the risks, benefits, and treatment alternatives to involuntary medication, and has determined that the treatment alternatives to involuntary medication are unlikely to meet the needs of the patient.
- (4) The inmate has been advised of the risks and benefits of, and treatment alternatives to, the psychiatric medication and refuses, or is unable to consent to, the administration of the medication.
- (5) The jail has made a documented attempt to locate an available bed for the inmate in a community-based treatment facility in lieu of seeking to administer involuntary medication. The jail shall transfer that inmate to such a facility only if the facility can provide care for the mental health needs, and the physical health needs, if any, of the inmate and upon the agreement of the facility. In enacting the act that added this paragraph, it is the intent of the Legislature to recognize the lack of community-based beds and the inability of many facilities to accept transfers from correctional facilities.
- (6) The inmate is provided a hearing before a superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer, as specified in subdivision (c) of Section 5334 of the Welfare and Institutions Code.
- (A) If the inmate is in custody awaiting trial, any hearing pursuant to this section shall be held before, and any requests for ex parte orders shall be submitted to, a judge in the superior court where the criminal case is pending.
- (B) A superior court judge may consider whether involuntary medication would prejudice the inmate's defense.
- (7) (A) The inmate is provided counsel at least 21 days prior to the hearing, unless emergency or interim medication is being administered pursuant to subdivision (d), in which case the inmate would receive expedited access to counsel.
- (B) In the case of an inmate awaiting arraignment, the inmate is provided counsel within 48 hours of the filing of the notice of the hearing with the superior court, unless counsel has previously been appointed.
- (C) The hearing shall be held not more than 30 days after the filing of the notice with the superior court, unless counsel for the inmate agrees to extend the date of the hearing.

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- (8) (A) The inmate and counsel are provided with written notice of the hearing at least 21 days prior to the hearing, unless emergency or interim medication is being administered pursuant to subdivision (d), in which case the inmate would receive an expedited hearing.
- (B) The written notice shall do all of the following:
- (i) Set forth the diagnosis, the factual basis for the diagnosis, the basis upon which psychiatric medication is recommended, the expected benefits of the medication, any potential side effects and risks to the inmate from the medication, and any alternatives to treatment with the medication.
- (ii) Advise the inmate of the right to be present at the hearing, the right to be represented by counsel at all stages of the proceedings, the right to present evidence, and the right to cross-examine witnesses. Counsel for the inmate shall have access to all medical records and files of the inmate, but shall not have access to the confidential section of the inmate's central file which contains materials unrelated to medical treatment.
- (iii) Inform the inmate of their right to appeal the determination to the superior court or the court of appeal as specified in subdivisions (e) and (f) of Section 5334 of the Welfare and Institutions Code, and their right to file a petition for writ of habeas corpus with respect to any decision of the county department of mental health, or other designated county department, to continue treatment with involuntary medication after the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer has authorized treatment with involuntary medication.
- (9) (A) In the hearing described in paragraph (6), the superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer determines by clear and convincing evidence that the inmate has a mental illness or disorder, that as a result of that illness the inmate is gravely disabled and lacks the capacity to consent to or refuse treatment with psychiatric medications or is a danger to self or others if not medicated, that there is no less intrusive alternative to involuntary medication, and that the medication is in the inmate's best medical interest.
- (B) The superior court judge, court-appointed commissioner or referee, or a court-appointed hearing officer shall not make a finding pursuant to subparagraph (A) of this paragraph that there is no less intrusive alternative to involuntary medication and that the medication is in the inmate's best medical interest, without information from the jail to indicate that neither of the conditions specified in paragraph (5) is present.
- (C) If the court makes the findings in subparagraph (A), that administration shall occur in consultation with a psychiatrist who is not involved in the treatment of the inmate at the jail, if available.
- (D) In the event of any statutory notice issues with either initial or renewal filings by the county department of mental health, or other designated county department, the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer shall hear arguments as to why the case should be heard, and shall consider factors such as the ability of the inmate's

Nikki Moore Assembly Committee on Public Safety 07/09/2021 Page 12 of 43 counsel to adequately prepare the case and to confer with the inmate, the continuity of care, and, if applicable, the need for protection of the inmate or institutional staff that would be compromised by a procedural default.

- (10) The historical course of the inmate's mental disorder, as determined by available relevant information about the course of the inmate's mental disorder, shall be considered when it has direct bearing on the determination of whether the inmate is a danger to self or others, or is gravely disabled and incompetent to refuse medication as the result of a mental disorder.
- (11) An inmate is entitled to file one motion for reconsideration following a determination that they may receive involuntary medication, and may seek a hearing to present new evidence, upon good cause shown. This paragraph does not prevent a court from reviewing, modifying, or terminating an involuntary medication order for an inmate awaiting trial, if there is a showing that the involuntary medication is interfering with the inmate's due process rights in the criminal proceeding.
- (d) (1) (A) This section does not prohibit a physician from taking appropriate action in an emergency. An emergency exists when both of the following criteria are met:
- (i) There is a sudden and marked change in an inmate's mental condition so that action is immediately necessary for the preservation of life or the prevention of serious bodily harm to the inmate or others.
- (ii) It is impractical, due to the seriousness of the emergency, to first obtain informed consent.
- (B) If psychiatric medication is administered during an emergency, the medication shall only be that which is required to treat the emergency condition and shall be administered for only so long as the emergency continues to exist.
- (2) (A) If the clinicians of the county department of mental health, or other designated county department, identify a situation that jeopardizes the inmate's health or well-being as the result of a serious mental illness, and necessitates the continuation of medication beyond the initial 72 hours pending the full mental health hearing, the county department may seek to continue the medication by giving notice to the inmate and their counsel of its intention to seek an ex parte order to allow the continuance of medication pending the full hearing, and filing an ex parte order within the initial 72-hour period. Treatment of the inmate in a facility pursuant to Section 4011.6 shall not be required in order to continue medication under this subdivision unless the treatment is otherwise medically necessary.
- (B) The notice shall be served upon the inmate and counsel at the same time the inmate is given the written notice that the involuntary medication proceedings are being initiated and is appointed counsel as provided in subdivision (c).

- (C) The order may be issued ex parte upon a showing that, in the absence of the medication, the emergency conditions are likely to recur. The request for an ex parte order shall be supported by an affidavit from the psychiatrist or psychologist showing specific facts.
- (D) The inmate and the inmate's appointed counsel shall have two business days to respond to the county department's ex parte request to continue interim medication, and may present facts supported by an affidavit in opposition to the department's request. A superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer shall review the ex parte request and shall have three business days to determine the merits of the department's request for an ex parte order.
- (E) If an order is issued, the psychiatrist may continue the administration of the medication until the hearing described in paragraph (6) of subdivision (c) is held.
- (3) If the county elects to seek an ex parte order pursuant to this subdivision, the county department of mental health, or other designated county department, shall file with the superior court, and serve on the inmate and their counsel, the written notice described in paragraph (8) of subdivision (c) within 72 hours of commencing medication pursuant to this subdivision, unless either of the following occurs:
- (A) The inmate gives informed consent to continue the medication.
- (B) A psychiatrist determines that the psychiatric medication is not necessary and administration of the medication is discontinued.
- (4) If medication is being administered pursuant to this subdivision, the hearing described in paragraph (6) of subdivision (c) shall commence within 21 days of the filing and service of the notice, unless counsel for the inmate agrees to a different period of time.
- (5) With the exception of the timeline provisions specified in paragraphs (3) and (4) for providing notice and commencement of the hearing in emergency or interim situations, the inmate shall be entitled to and be given the same due process protections as specified in subdivision (c). The county department of mental health, or other designated county department, shall prove the same elements supporting the involuntary administration of psychiatric medication and the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer shall be required to make the same findings described in subdivision (c).
- (e) (1) (A) An order by the court authorizing involuntary medication of an inmate shall be valid for no more than one year after the date of determination.
- (B) Notwithstanding subparagraph (A), in the case of an inmate who is awaiting arraignment, trial, or sentencing, the determination that an inmate may receive involuntary medication shall be valid for no more than 180 days. The court shall review the order at intervals of not more than 60 days to determine whether the grounds for the order remain. At each review, the psychiatrist shall file an affidavit with the court that ordered the involuntary medication affirming that the person who

Nikki Moore Assembly Committee on Public Safety 07/09/2021 Page 14 of 43 is the subject of the order continues to meet the criteria for involuntary medication. A copy of the affidavit shall be provided to the defendant and the defendant's attorney. In determining whether the criteria for involuntary medication still exist, the court shall consider the affidavit of the psychiatrist or psychiatrists and any supplemental information provided by the defendant's attorney. The court may also require the testimony from the psychiatrist, if necessary. The court, at each review, may continue the order authorizing involuntary medication, vacate the order, or make any other appropriate order.

- (2) Notwithstanding subparagraph (A) of paragraph (1), any determination of an inmate's incapacity to refuse treatment with antipsychotic medication made pursuant to this section shall remain in effect only until one of the following occurs, whichever occurs first:
- (A) The duration of the inmate's confinement ends.
- (B) A court determines that the inmate no longer meets the criteria of subdivision (c) or (d), or by any other order of the court.
- (3) An inmate's period of confinement may not be extended in order to provide treatment to the inmate with antipsychotic medication pursuant to this section.
- (f) This section does not prohibit the court, upon making a determination that an inmate awaiting arraignment, preliminary hearing, trial, sentencing, or a postconviction proceeding to revoke or modify supervision may receive involuntary medication pursuant to subdivision (c) or (d), and, upon ex parte request of the defendant or counsel, from suspending all proceedings in the criminal prosecution, until the court determines that the defendant's medication will not interfere with their ability to meaningfully participate in the criminal proceedings.
- (g) If a determination has been made to involuntarily medicate an inmate pursuant to subdivision (c) or (d), the medication shall be discontinued one year after the date of that determination, unless the inmate gives informed consent to the administration of the medication, or unless a new determination is made pursuant to the procedures set forth in subdivision (h).
- (h) To renew an existing order allowing involuntary medication, the county department of mental health, or other designated county department, shall file with the superior court, and shall serve on the inmate and their counsel, a written notice indicating the department's intent to renew the existing involuntary medication order.
- (1) The request to renew the order shall be filed and served no later than 21 days prior to the expiration of the current order authorizing involuntary medication.
- (2) The inmate shall be entitled to, and shall be given, the same due process protections as specified in subdivision (c).
- (3) (A) Except as provided in subparagraph (B), renewal orders shall be valid for one year from the date of the hearing.

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- (B) In the case of an inmate awaiting arraignment, trial, or sentencing, the renewal order shall be valid for no more than 180 days. The court shall review the order at intervals of not more than 60 days to determine whether the grounds for the order remain. At each review, the psychiatrist shall file an affidavit with the court that ordered the involuntary medication affirming that the person who is the subject of the order continues to meet the criteria for involuntary medication. A copy of the affidavit shall be provided to the defendant and the defendant's attorney. In determining whether the criteria for involuntary medication still exist, the court shall consider the affidavit of the psychiatrist or psychiatrists and any supplemental information provided by the defendant's attorney. The court may also require the testimony from the psychiatrist, if necessary. The court, at each review, may continue the order authorizing involuntary medication, vacate the order, or make any other appropriate order.
- (4) (A) An order renewing an existing order shall be granted based on clear and convincing evidence that the inmate has a serious mental disorder that requires treatment with psychiatric medication, and that, but for the medication, the inmate would revert to the behavior that was the basis for the prior order authorizing involuntary medication, coupled with evidence that the inmate lacks insight regarding their need for the medication, such that it is unlikely that the inmate would be able to manage their own medication and treatment regimen. No new acts need be alleged or proven.
- (B) The superior court judge, court-appointed commissioner or referee, or a court-appointed hearing officer shall also make a finding that treatment of the inmate in a correctional setting continues to be necessary if neither of the criteria in paragraph (5) of subdivision (c) is present.
- (5) If the county department of mental health, or other designated county department, wishes to add a basis to an existing order, it shall give the inmate and the inmate's counsel notice in advance of the hearing via a renewal notice or supplemental petition. Within the renewal notice or supplemental petition, as described in subdivision (h), the county department of mental health, or other designated county department, shall specify what additional basis is being alleged and what qualifying conduct within the past year supports that additional basis. The county department of mental health, or other designated county department, shall prove the additional basis and conduct by clear and convincing evidence at a hearing as specified in subdivision (c).
- (6) The hearing on any petition to renew an order for involuntary medication shall be conducted prior to the expiration of the current order.
- (i) In the event of a conflict between the provisions of this section and the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of the Government Code), this section shall control.
- (j) As used in this section, "inmate" means a person confined in the county jail, including, but not limited to, a person sentenced to imprisonment in a county jail, a person housed in a county jail during or awaiting trial proceedings, and a person who has been booked into a county jail and is awaiting arraignment.

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- (k) This section does not apply to a person housed in a county jail solely on the basis of an immigration hold, except as it applies to medication provided on an emergency or interim basis as provided in subdivision (d).
- (l) Each county that administers involuntary medication to an inmate awaiting arraignment, trial, or sentencing, shall file, by January 1, 2021, a written report with the Assembly Committees on Judiciary and Public Safety and the Senate Committee on Public Safety summarizing the following: the number of inmates who received involuntary medication while awaiting arraignment, trial, or sentencing between January 1, 2018, and July 1, 2020; the crime for which those inmates were arrested; the total time those inmates were detained while awaiting arraignment, trial, or sentencing; the duration of the administration of involuntary medication; the number of times, if any, that an existing order for the administration of involuntary medication was renewed; and the reason for termination of the administration of involuntary medication.
- (m) This section shall remain in effect only until January 1, 2025, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends the date.
- **SEC. 12.** Section 2603 of the Penal Code, as added by Section 3 of Chapter 347 of the Statutes of 2017, is amended to read:
- **2603.** (a) Except as provided in subdivision (b), no person sentenced to imprisonment in a county jail shall be administered any psychiatric medication without prior informed consent.
- (b) If a psychiatrist determines that an inmate should be treated with psychiatric medication, but the inmate does not consent, the inmate may be involuntarily treated with the medication. Treatment may be given on either a nonemergency basis as provided in subdivision (c), or on an emergency or interim basis as provided in subdivision (d).
- (c) A county department of mental health, or other designated county department, may seek to initiate involuntary medication on a nonemergency basis only if all of the following conditions have been met:
- (1) A psychiatrist or psychologist has determined that the inmate has a serious mental disorder.
- (2) A psychiatrist or psychologist has determined that, as a result of that mental disorder, the inmate is gravely disabled and does not have the capacity to refuse treatment with psychiatric medications, or is a danger to self or others.
- (3) A psychiatrist has prescribed one or more psychiatric medications for the treatment of the inmate's disorder, has considered the risks, benefits, and treatment alternatives to involuntary medication, and has determined that the treatment alternatives to involuntary medication are unlikely to meet the needs of the patient.

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- (4) The inmate has been advised of the risks and benefits of, and treatment alternatives to, the psychiatric medication, and refuses, or is unable to consent to, the administration of the medication.
- (5) The inmate is provided a hearing before a superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer, as specified in subdivision (c) of Section 5334 of the Welfare and Institutions Code.
- (6) The inmate is provided counsel at least 21 days prior to the hearing, unless emergency or interim medication is being administered pursuant to subdivision (d), in which case the inmate would receive expedited access to counsel. The hearing shall be held not more than 30 days after the filing of the notice with the superior court, unless counsel for the inmate agrees to extend the date of the hearing.
- (7) The inmate and counsel are provided with written notice of the hearing at least 21 days prior to the hearing, unless emergency or interim medication is being administered pursuant to subdivision (d), in which case the inmate would receive an expedited hearing. The written notice shall do all of the following:
- (A) Set forth the diagnosis, the factual basis for the diagnosis, the basis upon which psychiatric medication is recommended, the expected benefits of the medication, any potential side effects and risks to the inmate from the medication, and any alternatives to treatment with the medication.
- (B) Advise the inmate of the right to be present at the hearing, the right to be represented by counsel at all stages of the proceedings, the right to present evidence, and the right to cross-examine witnesses. Counsel for the inmate shall have access to all medical records and files of the inmate, but shall not have access to the confidential section of the inmate's central file which contains materials unrelated to medical treatment.
- (C) Inform the inmate of the right to appeal the determination to the superior court or the court of appeal as specified in subdivisions (e) and (f) of Section 5334 of the Welfare and Institutions Code, and of the right to file a petition for writ of habeas corpus with respect to any decision of the county department of mental health, or other designated county department, to continue treatment with involuntary medication after the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer has authorized treatment with involuntary medication.
- (8) A superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer determines by clear and convincing evidence that the inmate has a mental illness or disorder, that as a result of that illness the inmate is gravely disabled and lacks the capacity to consent to or refuse treatment with psychiatric medications or is a danger to self or others if not medicated, that there is no less intrusive alternative to involuntary medication, and that the medication is in the inmate's best medical interest. In the event of any statutory notice issues with either initial or renewal filings by the county department of mental health, or other designated county department, the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer shall hear arguments as to why the case should be heard, and shall

Nikki Moore Assembly Committee on Public Safety 07/09/2021 Page 18 of 43 consider factors such as the ability of the inmate's counsel to adequately prepare the case and to confer with the inmate, the continuity of care, and, if applicable, the need for protection of the inmate or institutional staff that would be compromised by a procedural default.

- (9) The historical course of the inmate's mental disorder, as determined by available relevant information about the course of the inmate's mental disorder, shall be considered when it has direct bearing on the determination of whether the inmate is a danger to self or others, or is gravely disabled and incompetent to refuse medication as the result of a mental disorder.
- (10) An inmate is entitled to file one motion for reconsideration following a determination that they may receive involuntary medication, and may seek a hearing to present new evidence, upon good cause shown.
- (d) Nothing in this section is intended to prohibit a physician from taking appropriate action in an emergency. An emergency exists when there is a sudden and marked change in an inmate's mental condition so that action is immediately necessary for the preservation of life or the prevention of serious bodily harm to the inmate or others, and it is impractical, due to the seriousness of the emergency, to first obtain informed consent. If psychiatric medication is administered during an emergency, the medication shall only be that which is required to treat the emergency condition and shall be administered for only so long as the emergency continues to exist. If the clinicians of the county department of mental health, or other designated county department, identify a situation that jeopardizes the inmate's health or well-being as the result of a serious mental illness, and necessitates the continuation of medication beyond the initial 72 hours pending the full mental health hearing, the county department may seek to continue the medication by giving notice to the inmate and their counsel of its intention to seek an ex parte order to allow the continuance of medication pending the full hearing. Treatment of the inmate in a facility pursuant to Section 4011.6 shall not be required in order to continue medication under this subdivision unless the treatment is otherwise medically necessary. The notice shall be served upon the inmate and counsel at the same time the inmate is given the written notice that the involuntary medication proceedings are being initiated and is appointed counsel as provided in subdivision (c). The order may be issued ex parte upon a showing that, in the absence of the medication, the emergency conditions are likely to recur. The request for an ex parte order shall be supported by an affidavit from the psychiatrist or psychologist showing specific facts. The inmate and the inmate's appointed counsel shall have two business days to respond to the county department's ex parte request to continue interim medication, and may present facts supported by an affidavit in opposition to the department's request. A superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer shall review the ex parte request and shall have three business days to determine the merits of the department's request for an ex parte order. If an order is issued, the psychiatrist may continue the administration of the medication until the hearing described in paragraph (5) of subdivision (c) is held.
- (1) If the county elects to seek an ex parte order pursuant to this subdivision, the county department of mental health, or other designated county department, shall file with the superior court, and serve on the inmate and their counsel, the written notice described in paragraph (7) of subdivision

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- (c) within 72 hours of commencing medication pursuant to this subdivision, unless either of the following occurs:
- (A) The inmate gives informed consent to continue the medication.
- (B) A psychiatrist determines that the psychiatric medication is not necessary and administration of the medication is discontinued.
- (2) If medication is being administered pursuant to this subdivision, the hearing described in paragraph (5) of subdivision (c) shall commence within 21 days of the filing and service of the notice, unless counsel for the inmate agrees to a different period of time.
- (3) With the exception of the timeline provisions specified in paragraphs (1) and (2) for providing notice and commencement of the hearing in emergency or interim situations, the inmate shall be entitled to and be given the same due process protections as specified in subdivision (c). The county department of mental health, or other designated county department, shall prove the same elements supporting the involuntary administration of psychiatric medication, and the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer shall be required to make the same findings described in subdivision (c).
- (e) The determination that an inmate may receive involuntary medication shall be valid for one year from the date of the determination, regardless of whether the inmate subsequently gives informed consent.
- (f) If a determination has been made to involuntarily medicate an inmate pursuant to subdivision (c) or (d), the medication shall be discontinued one year after the date of that determination, unless the inmate gives informed consent to the administration of the medication, or unless a new determination is made pursuant to the procedures set forth in subdivision (g).
- (g) To renew an existing order allowing involuntary medication, the county department of mental health, or other designated county department, shall file with the superior court, and shall serve on the inmate and their counsel, a written notice indicating the department's intent to renew the existing involuntary medication order.
- (1) The request to renew the order shall be filed and served no later than 21 days prior to the expiration of the current order authorizing involuntary medication.
- (2) The inmate shall be entitled to, and shall be given, the same due process protections as specified in subdivision (c).
- (3) Renewal orders shall be valid for one year from the date of the hearing.
- (4) An order renewing an existing order shall be granted based on clear and convincing evidence that the inmate has a serious mental disorder that requires treatment with psychiatric medication, and that, but for the medication, the inmate would revert to the behavior that was the basis for the

Nikki Moore Assembly Committee on Public Safety 07/09/2021 Page 20 of 43 prior order authorizing involuntary medication, coupled with evidence that the inmate lacks insight regarding their need for the medication, such that it is unlikely that the inmate would be able to manage their own medication and treatment regimen. No new acts need be alleged or proven.

- (5) If the county department of mental health, or other designated county department, wishes to add a basis to an existing order, it shall give the inmate and the inmate's counsel notice in advance of the hearing via a renewal notice or supplemental petition. Within the renewal notice or supplemental petition, as described in subdivision (g), the county department of mental health, or other designated county department, shall specify what additional basis is being alleged and what qualifying conduct within the past year supports that additional basis. The county department of mental health, or other designated county department, shall prove the additional basis and conduct by clear and convincing evidence at a hearing as specified in subdivision (c).
- (6) The hearing on any petition to renew an order for involuntary medication shall be conducted prior to the expiration of the current order.
- (h) In the event of a conflict between the provisions of this section and the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code), this section shall control.
- (i) This section shall become effective on January 1, 2025.
- SEC. 13. Section 2905 of the Penal Code is amended to read:
- **2905.** (a) For purposes of this section, a "youth offender" is an individual committed to the Department of Corrections and Rehabilitation who is under 22 years of age.
- (b) (1) The department shall, at reception, automatically grant a youth offender a lower security level than the level that corresponds with that individual's classification score or placement in a facility that permits increased access to programs, except for a youth offender who has committed a serious in-custody offense, who shall be reviewed by a classification committee. The youth offender classification committee shall consist of the staff required by department regulations at any classification committee; however, at least one member shall be a department staff member specially trained in conducting the reviews. Training shall include, but not be limited to, adolescent and young adult development and evidence-based interviewing processes employing positive and motivational techniques.
- (2) The purpose of the youth offender review is to meet with the youth offender and assess the readiness of a youth offender for a lower security level or placement permitting increased access to programs and to encourage the youth offender to commit to positive change and self-improvement.
- (c) A youth offender shall be considered for placement at a lower security level than the level that corresponds with their classification score or placement in a facility that permits increased access

Nikki Moore Assembly Committee on Public Safety 07/09/2021 Page 21 of 43 to programs. When a classification committee is appropriate, it shall review factors including, but not limited to, the following:

- (1) Recent in-custody behavior while housed in juvenile or adult facilities.
- (2) Demonstrated efforts of progress toward self-improvement in juvenile or adult facilities.
- (3) Family or community ties supportive of rehabilitation.
- (4) Evidence of commitment to working toward self-improvement with a goal of being a law-abiding member of society upon release.
- (d) For a youth offender requiring review by classification committee, if the department determines, based on the review described in subdivisions (b) and (c), that the youth offender may be appropriately placed at a lower security level, the department shall transfer the youth offender to a lower security level facility. If the youth offender is denied a lower security level, then they shall be considered for placement in a facility that permits increased access to programs. If the department determines a youth offender may appropriately be placed in a facility permitting increased access to programs, the youth offender shall be transferred to such a facility.
- (e) For a youth offender requiring review by classification committee, if the youth offender demonstrates they are a safety risk to inmates, staff, or the public, and do not otherwise demonstrate a commitment to rehabilitation, the youth offender shall be reclassified and placed at a security level that is consistent with department regulations and procedures.
- (f) A youth offender who at their initial youth offender classification committee review is denied a lower security level than the level that corresponds with their placement score or did not qualify for a placement permitting increased access to programs due to previous incarceration history and was placed in the highest security level shall nevertheless be eligible to have their placement reconsidered pursuant to subdivisions (b) to (d), inclusive, at their annual review until reaching 25 years of age. If at an annual review it is determined that the youth offender has had no serious rule violations for one year, the department shall consider whether the youth would benefit from placement in a lower level facility or placement permitting increased access to programs.
- (g) The department shall review and, as necessary, revise existing regulations and adopt new regulations regarding classification determinations made pursuant to this section, and provide for training for staff.
- (h) This section shall become operative on July 1, 2015.
- SEC. 14. Section 3453 of the Penal Code is amended to read:
- 3453. Postrelease community supervision shall include the following conditions:
- (a) The person shall be informed of the conditions of release.

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- (b) The person shall obey all laws.
- (c) The person shall report to the supervising county agency within two working days of release from custody.
- (d) The person shall follow the directives and instructions of the supervising county agency.
- (e) The person shall report to the supervising county agency as directed by that agency.
- (f) The person, and their residence and possessions, shall be subject to search at any time of the day or night, with or without a warrant, by an agent of the supervising county agency or by a peace officer.
- (g) The person shall waive extradition if found outside the state.
- (h) (1) The person shall inform the supervising county agency of the person's place of residence and shall notify the supervising county agency of any change in residence, or the establishment of a new residence if the person was previously transient, within five working days of the change.
- (2) For purposes of this section, "residence" means one or more locations at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including, but not limited to, a house, apartment building, motel, hotel, homeless shelter, and recreational or other vehicle. If the person has no residence, they shall inform the supervising county agency that they are transient.
- (i) (1) The person shall inform the supervising county agency of the person's place of employment, education, or training. The person shall inform the supervising agency of any pending or anticipated change in employment, education, or training.
- (2) If the person enters into new employment, they shall inform the supervising county agency of the new employment within three business days of that entry.
- (j) The person shall immediately inform the supervising county agency if they are arrested or receive a citation.
- (k) The person shall obtain the permission of the supervising county agency to travel more than 50 miles from the person's place of residence.
- (l) The person shall obtain a travel pass from the supervising county agency before they may leave the county or state for more than two days.
- (m) The person shall not be in the presence of a firearm or ammunition, or any item that appears to be a firearm or ammunition.

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- (n) The person shall not possess, use, or have access to any weapon listed in Section 16140, subdivision (c) of Section 16170, Section 16220, 16260, 16320, 16330, or 16340, subdivision (b) of Section 16460, Section 16470, subdivision (f) of Section 16520, or Section 16570, 16740, 16760, 16830, 16920, 16930, 16940, 17090, 17125, 17160, 17170, 17180, 17190, 17200, 17270, 17280, 17330, 17350, 17360, 17700, 17705, 17710, 17715, 17720, 17725, 17730, 17735, 17740, 17745, 19100, 19200, 19205, 20200, 20310, 20410, 20510, 20610, 20611, 20710, 20910, 21110, 21310, 21810, 22210, 22215, 22410, 24310, 24410, 24510, 24610, 24680, 24710, 30210, 30215, 31500, 32310, 32400, 32405, 32410, 32415, 32420, 32425, 32430 32435, 32440, 32445, 32450, 32900, 33215, 33220, 33225, or 33600.
- (o) (1) Except as provided in paragraph (2) and subdivision (p), the person shall not possess a knife with a blade longer than two inches.
- (2) The person may possess a kitchen knife with a blade longer than two inches if the knife is used and kept only in the kitchen of the person's residence.
- (p) The person may use a knife with a blade longer than two inches, if the use is required for that person's employment, the use has been approved in a document issued by the supervising county agency, and the person possesses the document of approval at all times and makes it available for inspection.
- (q) The person shall waive any right to a court hearing prior to the imposition of a period of "flash incarceration" in a city or county jail of not more than 10 consecutive days for any violation of their postrelease supervision conditions.
- (r) The person shall participate in rehabilitation programming as recommended by the supervising county agency.
- (s) The person shall be subject to arrest with or without a warrant by a peace officer employed by the supervising county agency or, at the direction of the supervising county agency, by any peace officer when there is probable cause to believe the person has violated the terms and conditions of release.
- (t) The person shall pay court-ordered restitution and restitution fines in the same manner as a person placed on probation.
- SEC. 15. Section 5076.1 of the Penal Code is amended to read:
- **5076.1.** (a) The board shall meet at each of the state prisons and facilities under the jurisdiction of the Division of Adult Institutions. Meetings shall be held at whatever times may be necessary for a full and complete study of the cases of all inmates whose matters are considered. Other times and places of meeting may also be designated by the board. Each commissioner of the board shall receive actual necessary traveling expenses incurred in the performance of their official duties. Where the board performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, a majority of commissioners holding office on the date the

Nikki Moore Assembly Committee on Public Safety 07/09/2021 Page 24 of 43 matter is heard by the board shall be present, and no action shall be valid unless it is concurred in by a majority vote of those present.

- (b) The board may use deputy commissioners to whom it may assign appropriate duties, including hearing cases and making decisions. Those decisions shall be made in accordance with policies approved by a majority of the commissioners holding office.
- (c) The board may meet and transact business in panels. Each panel shall consist of two or more persons, subject to subdivision (d) of Section 3041. No action shall be valid unless concurred in by a majority vote of the persons present. In the event of a tie vote, the matter shall be referred for en banc review by the board. The commissioners conducting the review shall consider the full record that was before the panel that resulted in the tie vote. The review shall be limited to the full record that was before the panel that resulted in the tie vote. New evidence or comment shall not be considered in the en banc proceeding. A commissioner who was involved in the tie vote shall be recused from consideration of the matter in the en banc review.
- (d) Consideration of parole release for persons sentenced to life imprisonment pursuant to subdivision (b) of Section 1168 shall be heard by a panel of two or more commissioners or deputy commissioners, of which only one may be a deputy commissioner. A recommendation for recall of a sentence under subdivision (d) of Section 1170 shall be made by a panel, a majority of whose commissioners are commissioners of the Board of Parole Hearings.

SEC. 16. Section 5076.2 of the Penal Code is amended to read:

- **5076.2.** (a) Any rules and regulations, including any resolutions and policy statements, promulgated by the Board of Parole Hearings, shall be promulgated and filed pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.
- (b) The Board of Parole Hearings shall maintain, publish and make available to the general public, a compendium of its rules and regulations, including any resolutions and policy statements, promulgated pursuant to this section.
- (c) The exception specified in this subdivision to the procedures specified in this section shall apply to the Board of Parole Hearings. The executive officer may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State. However, no less than 20 days prior to that effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

SEC. 17. Section 5076.3 of the Penal Code is amended to read:

5076.3. The Executive Officer of the Board of Parole Hearings shall have the authority of a head of a department set forth in subdivision (e) of Section 11181 of the Government Code to issue

Nikki Moore Assembly Committee on Public Safety 07/09/2021 Page 25 of 43 subpoenas as provided in Article 2 (commencing with Section 11180) of Chapter 2 of Division 3 of Title 2 of the Government Code. The board shall adopt regulations on the policies and guidelines for the issuance of subpoenas.

SEC. 18. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

- (2) As used in this section:
- (A) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of a person, such as name, date of birth, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking numbers, charges, dispositions, sentencing information, and similar data about the person.
- (B) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.
- (b) The Attorney General shall furnish state summary criminal history information to the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:
- (1) The courts of the state.
- (2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and (b) of Section 830.5.
- (3) District attorneys of the state.
- (4) Prosecuting city attorneys or city prosecutors of a city within the state.
- (5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.
- (6) Probation officers of the state.
- (7) Parole officers of the state.

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- (8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.
- (9) A public defender or attorney of record when representing a person in a criminal case or a juvenile delinquency proceeding, including all appeals and postconviction motions, or a parole, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170, or postrelease community supervision revocation or revocation extension proceeding, if the information is requested in the course of representation.
- (10) An agency, officer, or official of the state if the state summary criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may perform state and federal criminal history information checks as provided for in subdivision (u). The Department of Justice shall provide a state or federal response to the agency, officer, or official pursuant to subdivision (p).
- (11) A city, county, city and county, or district, or an officer or official thereof, if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the state summary criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city, county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.
- (12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).
- (13) A person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.
- (14) Health officers of a city, county, city and county, or district when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.
- (15) A managing or supervising correctional officer of a county jail or other county correctional facility.

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- (16) A humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of humane officers.
- (17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing state summary criminal history information, the agency shall delete or purge from the file and destroy documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.
- (18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for a purpose other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.
- (19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving state summary criminal history information pursuant to this section.
- (20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code. The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.
- (21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.
- (22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

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- (23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.
- (24) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing the officer's duties.
- (25) A public agency described in subdivision (b) of Section 15975 of the Government Code, for the purpose of oversight and enforcement policies with respect to its contracted providers.
- (26) (A) A state entity, or its designee, that receives federal tax information. A state entity or its designee that is authorized by this paragraph to receive state summary criminal history information also may transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation for the purpose of the state entity or its designee obtaining federal level criminal offender record information from the Department of Justice. This information shall be used only for the purposes set forth in Section 1044 of the Government Code.
- (B) For purposes of this paragraph, "federal tax information," "state entity" and "designee" are as defined in paragraphs (1), (2), and (3), respectively, of subdivision (f) of Section 1044 of the Government Code.
- (c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:
- (1) A public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, the Attorney General shall furnish a copy of the data to the person to whom the data relates.
- (2) A peace officer of the state other than those included in subdivision (b).
- (3) An illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.
- (4) A peace officer of another country.
- (5) Public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

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- (6) A person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.
- (7) The courts of the United States, other states, or territories or possessions of the United States.
- (8) Peace officers of the United States, other states, or territories or possessions of the United States.
- (9) An individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or a foreign nation.
- (10) (A) (i) A public utility, as defined in Section 216 of the Public Utilities Code, or a cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment, may be seeking entrance to private residences or adjacent grounds. The information provided shall be limited to the record of convictions and arrests for which the person is released on bail or on their own recognizance pending trial.
- (ii) If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.
- (iii) State summary criminal history information is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on their own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.
- (iv) A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. A public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.
- (v) This section shall not be construed as imposing a duty upon public utilities or cable corporations to request state summary criminal history information on current or prospective employees.

- (B) For purposes of this paragraph, "cable corporation" means a corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.
- (C) Requests for federal level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. Federal level criminal history information received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.
- (11) A campus of the California State University or the University of California, or a four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to a special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.
- (12) A foreign government, if requested by the individual who is the subject of the record requested, if needed in conjunction with the individual's application to adopt a minor child who is a citizen of that foreign nation. Requests for information pursuant to this paragraph shall be in accordance with the process described in Sections 11122 to 11124, inclusive. The response shall be provided to the foreign government or its designee and to the individual who requested the information.
- (13) To the Governor, upon the Governor's request to the Attorney General in conjunction with the Governor's recommendation to the Director of the Selective Service System of applicants for appointment to the state's Selective Service System local boards.
- (d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.
- (e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, a person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 26190, and former

Nikki Moore Assembly Committee on Public Safety 07/09/2021 Page 31 of 43 Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

- (f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.
- (g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.
- (h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.
- (i) Notwithstanding any other law, the Department of Justice or a state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting state summary criminal history information checks that are authorized by law.
- (j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.
- (k) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.
- (2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:
- (A) Every conviction rendered against the applicant.
- (B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.
- (C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided, however, that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

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- (D) Every successful diversion.
- (E) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.
- (F) Sex offender registration status of the applicant.
- (G) Sentencing information, if present in the department's records at the time of the response.
- (l) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101, and the information is to be used for criminal justice employment, licensing, or certification purposes.
- (2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:
- (A) Every conviction rendered against the applicant.
- (B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.
- (C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or which did not result in a conviction, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention, or the subject was granted relief pursuant to Section 851.91.
- (D) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.
- (E) Sex offender registration status of the applicant.
- (F) Sentencing information, if present in the department's records at the time of the response.
- (m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or a statute that incorporates the criteria of any of those sections or this

Nikki Moore Assembly Committee on Public Safety 07/09/2021 Page 33 of 43 subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

- (2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:
- (A) Every conviction of an offense rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.49.
- (B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.
- (C) Every arrest for an offense for which the State Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.
- (D) Sex offender registration status of the applicant.
- (E) Sentencing information, if present in the department's records at the time of the response.
- (3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in the successful completion of a diversion program, exoneration, or a grant of relief pursuant to Section 851.91.
- (n) (1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:
- (A) Paragraph (10) of subdivision (c), when the information is to be used by a cable corporation.
- (B) Section 11105.3 or 11105.4.
- (C) Section 15660 of the Welfare and Institutions Code.
- (D) A statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.
- (2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other law, whenever state summary criminal history

Nikki Moore Assembly Committee on Public Safety 07/09/2021 Page 34 of 43 information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

- (A) Every conviction, except a conviction for which relief has been granted pursuant to Section 1203.49, rendered against the applicant for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.
- (B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.
- (C) Sex offender registration status of the applicant.
- (D) Sentencing information, if present in the department's records at the time of the response.
- (o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 379 or 550 of the Financial Code, or a statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.
- (2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:
- (A) Every conviction rendered against the applicant for a violation or attempted violation of an offense specified in Section 550 of the Financial Code, except a conviction for which relief has been granted pursuant to Section 1203.49.
- (B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.
- (C) Sentencing information, if present in the department's records at the time of the response.
- (p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or a statute that incorporates the criteria of that section or

Nikki Moore Assembly Committee on Public Safety 07/09/2021 Page 35 of 43 this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

- (2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:
- (A) Every conviction rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49. The Commission on Teacher Credentialing shall receive every conviction rendered against an applicant, retroactive to January 1, 2020, regardless of relief granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49.
- (B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.
- (C) Sex offender registration status of the applicant.
- (D) Sentencing information, if present in the department's records at the time of the response.
- (q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent notification pursuant to Section 11105.2.
- (r) This section does not require the Department of Justice to cease compliance with any other statutory notification requirements.
- (s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.
- (t) Whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual defined in subdivisions (k) to (p), inclusive, and the information is to be used for employment, licensing, or certification purposes, the authorized agency, organization, or individual shall expeditiously furnish a copy of the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision. When furnished other than in person, the copy shall be delivered to the last contact information provided by the applicant.
- (u) (1) If a fingerprint-based criminal history information check is required pursuant to any statute, that check shall be requested from the Department of Justice and shall be applicable to the person identified in the referencing statute. The agency or entity identified in the statute shall submit to the Department of Justice fingerprint images and related information required by the Department

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- of Justice of the types of applicants identified in the referencing statute, for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of the state or federal arrests for which the Department of Justice establishes that the person is free on bail or on their own recognizance pending trial or appeal.
- (2) If requested, the Department of Justice shall transmit fingerprint images and related information received pursuant to this section to the Federal Bureau of Investigation for the purpose of obtaining a federal criminal history information check. The Department of Justice shall review the information returned from the Federal Bureau of Investigation, and compile and disseminate a response or a fitness determination, as appropriate, to the agency or entity identified in the referencing statute.
- (3) The Department of Justice shall provide a state- or federal-level response or a fitness determination, as appropriate, to the agency or entity identified in the referencing statute, pursuant to the identified subdivision.
- (4) The agency or entity identified in the referencing statute shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2, for persons described in the referencing statute.
- (5) The Department of Justice shall charge a fee sufficient to cover the reasonable cost of processing the request described in this subdivision.
- SEC. 19. Section 13600 of the Penal Code is amended to read:
- 13600. (a) (1) The Legislature finds and declares that peace officers of the state correctional system, including youth and adult correctional facilities, fulfill responsibilities that require creation and application of sound selection criteria for applicants and standards for their training prior to assuming their duties. For the purposes of this section, correctional peace officers are peace officers as defined in Section 830.5 and employed or designated by the Department of Corrections and Rehabilitation.
- (2) The Legislature further finds that sound applicant selection and training are essential to public safety and in carrying out the missions of the Department of Corrections and Rehabilitation in the custody and care of the state's offender population. The greater degree of professionalism which will result from sound screening criteria and a significant training curriculum will greatly aid the department in maintaining smooth, efficient, and safe operations and effective programs.
- (b) There is within the Department of Corrections and Rehabilitation a Commission on Correctional Peace Officer Standards and Training, hereafter referred to, for purposes of this title, as the CPOST.
- (c) (1) The executive board of the CPOST shall be composed of six voting members.

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- (A) Three members from, appointed by, and representing the management of, the Department of Corrections and Rehabilitation, one of whom shall represent the Division of Juvenile Justice until June 30, 2023, and the Division of Adult Parole Operations after June 30, 2023, or the Division of Rehabilitative Programs.
- (B) Three members from, and appointed by the Governor upon recommendation by, and representing the membership of, the California Correctional Peace Officers' Association. Two members shall be rank-and-file persons from State Bargaining Unit 6 and one member shall be supervisory.
- (C) Appointments shall be for four years.
- (D) Promotion of a member of the CPOST shall invalidate the appointment of that member and shall require the recommendation and appointment of a new member if the member was appointed from rank and file or from supervisory personnel and promoted out of their respective rank and file or supervisory position during their term on the CPOST.
- (2) Each appointing authority shall appoint one alternate member for each regular member who it appoints pursuant to paragraph (1). Every alternate member shall possess the same qualifications as a regular member and shall substitute for, and vote in place of, a regular member who was appointed by the same appointing authority whenever a regular member is absent.
- (d) The rules for voting on the executive board of the CPOST shall be as follows:
- (1) Decisions shall be made by a majority vote.
- (2) Proxy voting shall not be permitted.
- (3) Tentative approval of a decision by the CPOST may be taken by a telephone vote. The CPOST members' decision shall be documented in writing and submitted to the CPOST for confirmation at the next scheduled CPOST meeting so as to become a part of the permanent record.
- (e) The executive board of the CPOST shall adopt rules as it deems necessary for efficient operations, including, but not limited to, the appointment of advisory members for forming whatever committees it deems necessary to conduct its business. These rules shall conform to the State Personnel Board's rules and regulations, the Department of Human Resources' rules and regulations, and the provisions of the State Bargaining Unit 6 memorandum of understanding.
- (f) The executive board shall seek advice from national experts, including university and college institutions and correctional associations, on issues pertaining to adult corrections, juvenile justice, and the training of the Department of Corrections and Rehabilitation staff that are relevant to its mission. To this end, the executive board shall seek information from experts with the most specific knowledge concerning the subject matter.
- (g) This section shall be operative on July 1, 2015.

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SEC. 20. Section 14201 of the Penal Code is amended to read:

14201. The Attorney General shall employ within the Department Justice, upon appropriation of funds by the Legislature, crime analysts with expertise in child abuse, missing persons, child abductions, and sexual assaults, who shall electronically share their data, analysis, and findings on violent crime cases with each other, and to electronically provide law enforcement agencies with information to assist in the identification, tracking, and apprehension of violent offenders.

SEC. 21. Section 14202 of the Penal Code is amended to read:

14202. The Attorney General shall establish and maintain, upon appropriation of funds by the Legislature, the California Sex and Arson Registry to track and monitor offenders and their activities. The system shall provide local law enforcement agencies with investigative leads to assist in the resolution of violent crimes.

SEC. 22. Section 16590 of the Penal Code is amended to read:

16590. As used in this part, "generally prohibited weapon" means any of the following:

- (a) An air gauge knife, as prohibited by Section 20310.
- (b) Ammunition that contains or consists of a flechette dart, as prohibited by Section 30210.
- (c) A ballistic knife, as prohibited by Section 21110.
- (d) A belt buckle knife, as prohibited by Section 20410.
- (e) A bullet containing or carrying an explosive agent, as prohibited by Section 30210.
- (f) A camouflaging firearm container, as prohibited by Section 24310.
- (g) A cane gun, as prohibited by Section 24410.
- (h) A cane sword, as prohibited by Section 20510.
- (i) A concealed dirk or dagger, as prohibited by Section 21310.
- (j) A concealed explosive substance, other than fixed ammunition, as prohibited by Section 19100.
- (k) A firearm that is not immediately recognizable as a firearm, as prohibited by Section 24510.
- (l) A large-capacity magazine, as prohibited by Section 32310.

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- (m) A leaded cane or an instrument or weapon of the kind commonly known as a billy, blackjack, sandbag, sandclub, sap, or slungshot, as prohibited by Section 22210.
- (n) A lipstick case knife, as prohibited by Section 20610.
- (o) Metal knuckles, as prohibited by Section 21810.
- (p) A metal military practice handgrenade or a metal replica handgrenade, as prohibited by Section 19200.
- (q) A multiburst trigger activator, as prohibited by Section 32900.
- (r) A shobi-zue, as prohibited by Section 20710.
- (s) A short-barreled rifle or short-barreled shotgun, as prohibited by Section 33215.
- (t) A shuriken, as prohibited by Section 22410.
- (u) An unconventional pistol, as prohibited by Section 31500.
- (v) An undetectable firearm, as prohibited by Section 24610.
- (w) A wallet gun, as prohibited by Section 24710.
- (x) A writing pen knife, as prohibited by Section 20910.
- (y) A zip gun, as prohibited by Section 33600.
- SEC. 23. Section 18010 of the Penal Code is amended to read:
- **18010.** (a) The Attorney General, a district attorney, or a city attorney may bring an action to enjoin the manufacture of, importation of, keeping for sale of, offering or exposing for sale, giving, lending, or possession of, any item that constitutes a nuisance under any of the following provisions:
- (1) Section 19290, relating to metal handgrenades.
- (2) Section 20390, relating to an air gauge knife.
- (3) Section 20490, relating to a belt buckle knife.
- (4) Section 20590, relating to a cane sword.
- (5) Section 20690, relating to a lipstick case knife.

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- (6) Section 20790, relating to a shobi-zue.
- (7) Section 20990, relating to a writing pen knife.
- (8) Section 21190, relating to a ballistic knife.
- (9) Section 21890, relating to metal knuckles.
- (10) Section 22290, relating to a leaded cane or an instrument or weapon of the kind commonly known as a billy, blackjack, sandbag, sandclub, sap, or slungshot.
- (11) Section 22490, relating to a shuriken.
- (12) Section 24390, relating to a camouflaging firearm container.
- (13) Section 24490, relating to a cane gun.
- (14) Section 24590, relating to a firearm not immediately recognizable as a firearm.
- (15) Section 24690, relating to an undetectable firearm.
- (16) Section 24790, relating to a wallet gun.
- (17) Section 30290, relating to flechette dart ammunition and to a bullet with an explosive agent.
- (18) Section 31590, relating to an unconventional pistol.
- (19) Section 32390, relating to a large-capacity magazine.
- (20) Section 32990, relating to a multiburst trigger activator.
- (21) Section 33290, relating to a short-barreled rifle or a short-barreled shotgun.
- (22) Section 33690, relating to a zip gun.
- (b) The weapons described in subdivision (a) shall be subject to confiscation and summary destruction whenever found within the state.
- (c) The weapons described in subdivision (a) shall be destroyed in the same manner described in Section 18005, except that upon the certification of a judge or of the district attorney that the ends of justice will be served thereby, the weapon shall be preserved until the necessity for its use ceases.
- (d) (1) Commencing July 1, 2022, the Attorney General, a district attorney, or a city attorney may bring an action to enjoin the importation into the state or sale of any firearm precursor part that is

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- imported into this state or sold within this state in violation of Article 1 (commencing with Section 30400), Article 2 (commencing with Section 30442), Article 3 (commencing with Section 30470), and Article 4 (commencing with Section 30485) of Chapter 1.5 of Division 10 of Title 4.
- (2) Commencing July 1, 2022, firearm precursor parts that are imported in this state or sold within this state in violation of Article 1 (commencing with Section 30400), Article 2 (commencing with Section 30442), Article 3 (commencing with Section 30470), and Article 4 (commencing with Section 30485) of Chapter 1.5 of Division 10 of Title 4 are a nuisance and are subject to confiscation and destruction pursuant to Section 18005.
- SEC. 24. Section 22010 of the Penal Code is repealed.
- SEC. 25. Section 22015 of the Penal Code is repealed.
- SEC. 26. Section 22090 of the Penal Code is repealed.
- SEC. 27. Section 22296 is added to the Penal Code, to read:
- 22296. As used in this part, a "billy," "blackjack," or "slungshot" does not include a nunchaku.
- SEC. 28. Section 208.5 of the Welfare and Institutions Code is amended to read:
- **208.5.** (a) Notwithstanding any other law, any person whose case originated in juvenile court shall remain, if the person is held in secure detention, in a county juvenile facility until the person attains 25 years of age, except as provided in subdivisions (b) and (c) of this section and paragraph (4) of subdivision (a) of Section 731. This section is not intended to authorize confinement in a juvenile facility where authority would not otherwise exist.
- (b) The probation department may petition the court to house a person who is 19 years of age or older in an adult facility, including a jail or other facility established for the purpose of confinement of adults.
- (c) Upon receipt of a petition to house a person who is 19 years of age or older in an adult facility, the court shall hold a hearing. There shall be a rebuttable presumption that the person will be retained in a juvenile facility. At the hearing, the court shall determine whether the person will be moved to an adult facility, and make written findings of its decision based on the totality of the following criteria:
- (1) The impact of being held in an adult facility on the physical and mental health and well-being of the person.
- (2) The benefits of continued programming at the juvenile facility and whether required education and other services called for in any juvenile court disposition or otherwise required by law or court order can be provided in the adult facility.

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- (3) The capacity of the adult facility to separate younger and older people as needed and to provide them with safe and age-appropriate housing and program opportunities.
- (4) The capacity of the juvenile facility to provide needed separation of older from younger people given the youth currently housed in the facility.
- (5) Evidence demonstrating that the juvenile facility is unable to currently manage the person's needs without posing a significant danger to staff or other youth in the facility.
- (d) If a person who is 19 to 24 years of age, inclusive, is removed from a juvenile facility pursuant to this section, upon the motion of any party and a showing of changed circumstances, the court shall consider the criteria in subdivision (c) and determine whether the person should be housed at a juvenile facility.
- (e) A person who is 19 years of age or older and who has been committed to a county juvenile facility or a facility of a contracted entity shall remain in the facility and shall not be subject to a petition for transfer to an adult facility. This section is not intended to authorize or extend confinement in a juvenile facility where authority would not otherwise exist.
- **SEC. 29.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
- **SEC. 30.** (a) Any section of any act enacted by the Legislature during the 2021 calendar year that takes effect on or before January 1, 2022, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted before, or subsequent to, the enactment of this act.
- (b) This section does not apply to the repeal of Section 597f of the Penal Code.

Date of Hearing: July 13, 2021 Counsel: David Billingsley

ASSEMBLY COMMITTEE ON PUBLIC SAFETY Reginald Byron Jones-Sawyer, Sr., Chair

SB 334 (Durazo) - As Amended June 28, 2021

SUMMARY: Requires private detention facilities to operate in compliance with specified state and local codes and regulations. Requires private detention facilities to maintain specified insurance coverages, including general, automobile, and umbrella liability, and workers' compensation. Specifically, **this bill**:

- 1) States that a private detention facility responsible for the custody and control of a prisoner or a civil detainee shall comply with the following requirements:
 - a) The private detention facility shall comply with all appropriate state and local building, zoning, health, safety, and fire statutes, ordinances, and regulations, and with the minimum jail standards established by regulations adopted by the Board of State and Community Corrections (BSCC);
 - b) The private detention facility shall select and train its personnel in accordance with selection and training requirements adopted by BSCC, as specified;
 - c) The private detention facility shall comply with, and adhere to, the detention standards of care and confinement agreed upon in the facility's contract for operations, which standards shall meet or exceed the standards set forth above; and,
 - d) The private detention facility shall maintain the following insurance coverages, which shall be obtained from an admitted insurer:
 - i) General liability, including directors' and officers' liability, medical professional liability, and liability for civil rights violations, with minimum coverage limits of not less than five million dollars per occurrence and twenty-five million dollars in aggregate;
 - ii) Automobile liability, with minimum coverage limits of not less than five million dollars per occurrence;
 - iii) Umbrella liability, with minimum coverage limits of not less than twenty-five million dollars per occurrence and twenty-five million dollars in aggregate;
 - iv) Workers' compensation as required by law. Self-insurance does not satisfy this requirement.

- 2) Specifies that any governmental entity with which the private detention facility has a contract to provide detention services shall be included as an additional insured on the policy.
- 3) States that the insurance policy shall require the private detention facility to comply with the requirements of the provisions of this bill, provide the insurer and Insurance Commissioner with an initial compliance report and subsequent annual compliance updates as required.
- 4) States that the requirements of this bill regarding insurance policies shall not apply to facilities which current law exempts from the prohibition on operating a private detention facility, but those requirements shall apply to a private detention facility that provides vocational, medical, or other ancillary services to an inmate, and wherein inmates are regularly confined for time periods greater than 10 consecutive hours.
- 5) Specifies that the provisions of this bill do not create any additional authority or responsibility on the part of BSCC or Department of Corrections and Rehabilitation (CDCR).
- 6) States that BSCC and CDCR shall neither be required, nor are authorized to, expend any funds, or incur any expenses as a result of the provisions of this bill.
- 7) Specifies that to reduce underwriting risk and ensure solvency, an insurer providing insurance coverage to a private detention facility may consider whether the private detention facility complies with all of the requirements described above as part of the insurer's loss control program.

EXISTING LAW:

- 1) Specifies that after January 1, 2020, CDCR shall not enter into a contract with a private, for-profit prison facility located in or outside of the state to provide housing for state prison inmates. (Pen. Code, § 5003. 1, subd. (a).)
- 2) States that after January 1, 2020, CDCR shall not renew an existing contract with a private, for-profit prison facility located in or outside of the state to incarcerate state prison inmates.
- 3) Specifies that after January 1, 2028, a state prison inmate or other person under the jurisdiction of CDCR shall not be incarcerated in a private, for-profit prison facility. (Pen. Code, § 5003. 1, subd. (b).)
- 4) Provides that notwithstanding the limitations on contracting with private prisons, CDCR may renew or extend a contract with a private, for-profit prison facility to provide housing for state prison inmates in order to comply with the requirements of any court-ordered population cap. (Pen. Code, § 5003. 1, subd. (d).)
- 5) Excludes a facility that is privately owned, but is leased and operated by CDCR from the definition of "private, for-profit prison facility" for purposes of the provisions described above. (Pen. Code, § 5003. 1, subd. (c).)
- 6) Prohibits a person from operating a private detention facility within California, with specified exceptions. (Pen. Code, §§ 9001-9005.)

- 7) Authorizes the Secretary of CDCR to enter into agreements with private entities to obtain secure housing capacity in another state. (Pen. Code, § 2915, subds. (b) & (d).)
- 8) Prohibits CDCR from operating its own facility outside of California. (Pen. Code, § 2915, subd. (b).)
- 9) Requires CDCR, to the extent that the adult offender population continues to decline, to begin reducing private in-state male contract correctional facilities in a manner that maintains sufficient flexibility to comply with the federal court order to maintain the prison population at or below 137.5 percent of design capacity. The private in-state male contract correctional facilities that are primarily staffed by non-Department of Corrections and Rehabilitation personnel shall be prioritized for reduction over other in-state contract correctional facilities. (Pen. Code, § 2067, subd. (a).)
- 10) Requires CDCR to consider the following factors in reducing the capacity of state-owned and operated prisons or in-state leased or contract correctional facilities:
 - a) The cost to operate at the capacity;
 - b) Workforce impacts;
 - c) Subpopulation and gender-specific housing needs;
 - d) Long-term investment in state-owned and operated correctional facilities, including previous investments;
 - e) Public safety and rehabilitation; and,
 - f) The durability of the state's solution to prison overcrowding. (Pen. Code, § 2067, subd. (b).)
- 11) Specifies that a city, county, or local law enforcement agency that does not, as of June 15, 2017, have a contract with the federal government to detain adult noncitizens for purposes of civil immigration custody, is prohibited from entering into a contract with the federal government, to detain in a locked detention facility, noncitizens for purposes of civil immigration custody. (Gov. Code, § 7310, subd. (a).)
- 12) States that until July 1, 2027, the Attorney General, shall engage in reviews of county, local, or private locked detention facilities in which noncitizens are being housed or detained for purposes of civil immigration proceedings in California, including any county, local, or private locked detention facility in which an accompanied or unaccompanied minor is housed or detained. (Gov. Code, § 12532, subd. (a).)
- 13) Requires any private detention facility operator to comply with, and adhere to, the detention standards of care and confinement agreed upon in the facility's contract for operations. (Gov. Code, § 7320, subd. (a).)
- 14) Provides, as of January 1, 2018, contracting restrictions and new notice and public hearing requirements, as specified, upon local governments and local law enforcement agencies with

respect to contracts, building permits, and other official actions involving the federal government, federal agencies, or private corporations seeking to house or detain noncitizens for purposes of civil immigration detention. (Civ. Code, § 1670.9.)

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's Statement: According to the author, "The poor health and safety standards in these facilities is documented in numerous investigations: a 2016 U.S. A.G. report, 2017 U.S. Homeland Security Report, and 2019 USA Today report depicting sexual assault, physical and mental abuse, inadequate medical care, and solitary confinement. In turn, California has taken a definitive stance to address the abusive and inhumane care towards detainees. Despite these efforts, operators' reluctance to adopt more rigorous standards raises alarms about the health and safety of people detained in these facilities which have been exacerbated by the COVID-19 pandemic.

"According to USC researchers, continued violation of health and safety standards has been exacerbated by the COVID-19 pandemic, as deaths in immigration detention centers have skyrocketed across the U.S. due to delays in medical treatment and poor control of infectious diseases including lack of access to soap, sanitizer, medical supplies, PPE, and social distancing. Among the first outbreaks reported in these facilities was one in Otay Mesa when at least 111 people in custody and 25 staffers tested positive and the first COVID-19 related death of a detainee.

"SB 334 (Durazo) offers a critical piece to the needed oversight of these private, for-profit facilities, ensuring they are adhering to all necessary health and safety standards. Insurance companies want to reduce risk to avoid losses and the control that insurance companies have over the availability and costs of coverage creates a financial incentive for private for-profit prisons and detention facilities to meet these standards if they are to continue to operate in California. The insurance requirements in this proposal ensure that coverage exists to protect and compensate persons who are harmed, while ensuring compliance with health and safety standards through insurance company risk management processes. This provides a powerful financial motivation for private prisons and detention facilities to adhere to local, state, and federal standards."

2) Private Detention Facilities: The federal government contracts with private detention facilities throughout the country to house immigration detainees and federal criminal pretrial detainees. There are a variety of concerns regarding the use of private detention facilities.

In 2016, the U.S. Department of Justice's Office of the Inspector General conducted an investigation of private prisons and issued a report. The investigation found that private prisons were less safe than federal prisons, poorly administered, and provided limited long-term savings for the federal government. For example, the contract prisons confiscated eight times as many contraband cell phones annually on average as the federal institutions. Private prisons also had higher rates of assaults, both by inmates on other inmates and by inmates on staff. Additionally, two of the three contract prisons inspected by the Inspector General's Office discovered they were improperly housing new inmates in Special Housing Units (SHU), which are normally used for disciplinary or administrative segregation, until beds

became available in general population housing. (See Review of the Federal Bureau of Prisons' Monitoring of Contract Prisons, August 2016, (https://oig.justice.gov/reports/2016/e1606.pdf#page=2.)

There are also concerns with the transparency of private detention facilities. Private, for-profit detention facilities are accountable to their shareholders and not the people of the State of California. For example, these facilities claim exemptions to the public disclosure requirements under the Freedom of Information Act (FOIA) (5 U.S.C. § 552) because they are private corporations, which makes the potentially unlawful conduct occurring within the facility hidden from discovery. These facilities similarly claim an exemption to California's State counterpart, the California Public Records Act (CPRA) (Gov. Code, § 6250 et seq).

Current law requires the Attorney General to engage in reviews of county, local, or private locked detention facilities in which noncitizens are being housed or detained for purposes of civil immigration proceedings in California.

AB 32 (Bonta), Chapter 739, Statutes of 2019, prohibited CDCR from entering into, or renewing contracts with private for-profit prisons after January 1, 2020, and eliminates their use by January 1, 2028. AB 32 also prohibits the operation of a private detention facility (including those housing immigration detainees) within the state, except as specified. AB 32 provides limited exemptions to the prohibition on private prisons.

3) Trump Administration Lawsuit Against California Over AB 32: The Trump administration filed a lawsuit against the state of California on January 24, 2020, asserting that AB 32's ban on private prison contracts unconstitutionally interferes with the federal prison and immigration detention systems. The case, filed in U.S. District Court in San Diego, asked a judge to ban the enforcement of the law against the federal government.

The lawsuit stated, "California, of course, is free to decide that it will no longer use private detention facilities for its state prisoners and detainees, but it cannot dictate that choice for the federal government, especially in a manner that discriminates against the federal government and those with whom it contracts." (https://www.latimes.com/california/story/2020-01-25/trump-administration-sues-california-

(https://www.latimes.com/california/story/2020-01-25/trump-administration-sues-california-over-private-prison-ban)

In October, 2020, AB 32 was mostly upheld by a federal district court judge, with the court denying a Trump administration request to block the law, but exempting the use of some private prisons. *Geo Grp., Inc. v. Newsom*, (Southern Dist. Cal.) 2020 U.S. Dist. LEXIS 187261.) The judge did conclude the AB 32 is an obstacle as applied to the U.S. Marshal Services contracts with private detention centers, but not an obstacle to the Bureau of Prisons' halfway houses and ICE's contracts with private prison centers. The judge stated, "Congress clearly authorized USMS to use private detention facilities in limited circumstances, such as where the number of USMS detainees in a given district exceeds the available capacity of federal, state, and local facilities" and "A.B. 32 therefore forecloses USMS from contracting with private detention facilities in those districts in which there does not exist sufficient availability in federal, state, or local facilities, in contravention of Congress' clear and manifest objective that the option be available," (*Id.* at 56.)

As part of its holding, the court found that "AB 32 does not regulate federal contracting, but

rather the operation of private detention facilities within California, and any incidental effect on the Federal Government's contracting interests does not suffice to establish field preemption. Accordingly, the Court concludes that the United States' interest in federal contracting does not preempt AB 32. (*Id.* at 88-89.)

The district court judge did preliminarily enjoin enforcement of California's ban against USMS's private detention facilities because they may face "disrupted operations and the incurrence of incompensable damages, respectively." (https://www.courthousenews.com/judge-largely-upholds-california-law-banning-private-prisons/)

An appeal was filed from the district court's judgment and the U.S. Department of Justice has continued to pursue that appeal under the Biden administration.

4) Private Detention Centers and Compliance with State and Local Codes: The federal district court case (*Geo Grp., Inc. v. Newsom, supra*) which upheld the ban on private detention facilities in California discussed the fact that the fact that regulation and oversight of health and safety matters is generally an issue for state and local governments.

The district court noted that "The [U.S.] Supreme Court has long recognized that "the regulation of health and safety matters is primarily, and historically, a matter of local concern" and pointed out that "the Ninth Circuit recently recognized that "California possesses the general authority to ensure the health and welfare of inmates and detainees in facilities within its borders." (*Geo Grp., Inc. v. Newsom*, at 45-46 (citing *Hillsborough City. v. Automated Med. Labs., Inc.* (1985), 471 U.S. 707, and *United States v. California* (9th Cir. 2019) 921 F.3d 865, 885-86,)

This bill would require private detention facilities to comply with state and local building, zoning, health, safety, and fire statutes, ordinances, and regulations. Although this requirement seems consistent with current law, this bill would serve to remove any ambiguity that such is the case. This bill would also require private detention facilities to maintain specified levels of insurance coverage, including general, automobile, and umbrella liability, and workers' compensation.

5) Board of State and Community Corrections (BSCC): SB 92 (Committee on Budget and Fiscal Reviews), Chapter 36, Statutes of 2011, established the BSCC, effective July 1, 2012. From 2005 through 2012, BSCC was the Correction Standards Authority, a division of CDCR. Prior to that it was the Board of Corrections, an independent state department. The BSCC is responsible for administering various criminal justice grant programs and ensuring compliance with state and federal standards in the operation of local correctional facilities. It is also responsible for providing technical assistance to local authorities and collecting data related to the outcomes of criminal justice policies and practices. (LAO, The 2013-14 Budget: The Governor's Criminal Justice Proposals, p. 44 (Feb. 15, 2013).)

BSCC promulgates regulations for adult and juvenile detention facilities, conducts regular inspections of those facilities, develops standards for the selection and training of local corrections and probation officers, and administers a variety public safety-related grant funding. The BSCC sets standards and provides training for local adult and juvenile corrections and probation officers. (https://www.bscc.ca.gov/m bsccboard/)

This bill would require private detention facilities to select and train its personnel in accordance with selection and training requirements adopted by BSCC and comply with the minimum jail standards established by BSCC.

6) Argument in Support: According to the *Immigrant Legal Resource Center*, "There are three reasons private prisons and detention facilities will likely continue to operate in California for the time being: 1) President Biden's recent executive order to end the use of private prisons does not end the use of private detention centers; 2) the Federal Government signed 15-year contracts with private detention facilities in California prior to the implementation of AB 32 (Bonta, Chapter 739, Statutes of 2019); and 3) recent court decisions concluded that AB 32 (Bonta) is preempted with respect to facilities contracted with the U.S. Marshals Service (USMS).

"Consequently, poor medical treatment leading to deaths of people in detention, lack of access to legal services leading to violations of civil rights, and other substandard conditions continue to plague private for-profit prisons and detention facilities because they repeatedly fail to meet minimum health and safety standards. Furthermore, this continued violation of health and safety standards has only been exacerbated by the COVID-19 pandemic, as deaths in immigration detention centers have skyrocketed across the United States due to delays in medical treatment and poor control of infectious diseases.

"SB 334 (Durazo) provides a powerful financial motivation for private for-profit prisons and detention facilities to adhere to local, state, and federal standards while additionally ensuring that these facilities maintain comprehensive insurance coverage. Most importantly, this bill will ensure that basic health, safety, and human rights are afforded to our most vulnerable populations."

7) Related Legislation:

- a) AB 937 (Carrillo), would eliminate the existing ability under the Values Act for law enforcement agencies to cooperate with federal immigration authorities by giving them notification of release for inmates or facilitating inmate transfers. AB 937 is set for hearing in the Senate Public Safety Committee on July 13, 2021.
- b) AB 263 (Arambula), would require a private detention facility operator to comply with, and adhere to, all local and state public health orders and occupational safety and health regulations. AB 263 is on the Senate Floor.

8) Prior Legislation:

- a) AB 3228 (Bonta), Chapter 190, Statutes of 2020, required any private detention facility operator to comply with, and adhere to, the detention standards of care and confinement agreed upon in the facility's contract for operations.
- b) AB 2598 (Bonta), of the 2019-2020 Legislative Session, would have required, before a California law enforcement agency enters into or amends a Memorandum of Understanding (MOU) regarding the agency's participation on the Federal Joint Terrorism Task Force, that the agency submit the proposed MOU and any procedures

relevant to the subject matter of the MOU to its governing body, or the Attorney General as appropriate, for approval. AB 2598 was never heard in the Assembly Public Safety Committee.

- c) AB 3181 (Bonta), of the 2019-2020 Legislative Session, would have required any facility in the state that detains, confines, or holds an individual in custody to develop written policies and procedures to ensure persons detained have access to basic minimum standards with respect to due process and access to the court and to legal counsel and the minimum standards specified in state regulations. AB 3181 was never heard in Assembly Public Safety Committee.
- d) AB 32 (Bonta), Chapter 739, Statutes of 2019, prohibits CDCR from entering into, or renewing contracts with private for-profit prisons after January 1, 2020, and eliminates their use by January 1, 2028. AB 32 also prohibits the operation of a private detention facility within the state, except as specified.
- e) AB 103 (Committee on Budget), Chapter 17, Statutes of 2017, requires that until July 1, 2027, the Attorney General, to engage in reviews of county, local, or private locked detention facilities in which noncitizens are being housed or detained for purposes of civil immigration proceedings in California, including any county, local, or private locked detention facility in which an accompanied or unaccompanied minor is housed or detained.
- f) AB 1320 (Bonta), of the 2017-2018 Legislative Session, would have prohibited CDCR from entering into, or renewing contracts with private prisons after January 1, 2018, and eliminates their use by January 1, 2028. AB 1320 was vetoed.

REGISTERED SUPPORT / OPPOSITION:

Support

Coalition for Humane Immigrant Rights (CHIRLA) (Sponsor)

American Civil Liberties Union/northern California/southern California/san Diego and Imperial Counties

Armenian National Committee of America - Western Region

California Department of Insurance

California Immigrant Policy Center

California League of United Latin American Citizens

California Public Defenders Association

Central Coast Alliance United for A Sustainable Economy

Clergy and Laity United for Economic Justice

Communities United for Restorative Youth Justice (CURYJ)

Consumer Attorneys of California

Consumer Federation of California

Courage California

Disability Rights California

Drug Policy Alliance

Ella Baker Center for Human Rights

Immigrant Legal Resource Center
Inland Coalition for Immigrant Justice
Inland Equity Partnership
National Association of Social Workers, California Chapter
National Immigration Law Center
Norcal Resist
Oakland Privacy
Peace Officers Research Association of California (PORAC)
Public Counsel
Public Law Center
Riverside Sheriffs' Association
Services, Immigrant Rights and Education Network
Southern California Armenian Democrats
Voices for Progress
Wellstone Democratic Renewal Club

Oppose

American Property Casualty Insurance Association

Analysis Prepared by: David Billingsley / PUB. S. / (916) 319-3744

Date of Hearing: July 13, 2021 Counsel: Cheryl Anderson

ASSEMBLY COMMITTEE ON PUBLIC SAFETY Reginald Byron Jones-Sawyer, Sr., Chair

SB 446 (Glazer) – As Amended June 23, 2021

SUMMARY: Changes existing procedures related to wrongful conviction compensation claims by shifting the burden onto the state to prove that the claimant is not entitled to compensation where their charges were dismissed or they were acquitted on retrial following the granting of a petition for writ of habeas corpus or motion to vacate the judgment. Specifically, **this bill**:

- 1) Specifies that if a state or federal court has granted a writ of habeas corpus, or if a state court has vacated a judgment, and in doing so made a finding of factual innocence under the standard that applies in those proceedings, that finding is binding on the California Victim Compensation Board (CVCB).
- 2) Makes a finding of factual innocence at an uncontested hearing, in addition to a contested hearing, binding on the CVCB for purposes of a wrongful conviction compensation claim.
- 3) Provides that failure to move for, or obtain a finding of, factual innocence for purposes of wrongful conviction compensation does not preclude litigating factual innocence in any other proceedings based on principles of res judicata (re-litigating a claim) or collateral estoppel (re-litigating an issue).
- 4) Provides that if a state or federal court has granted a writ of habeas corpus or if a state court has granted a motion to vacate based on newly discovered evidence of fraud, misconduct, or false testimony of a government official, or newly discovered evidence of actual innocence, and the charges are subsequently dismissed, or the person was acquitted of the charges on a retrial, the CVCB shall, upon application of the person, and without a hearing, calculate the compensation and recommend to the Legislature that the sum be paid, unless the Attorney General establishes that the claimant is not entitled to compensation.
- 5) Specifies that the Attorney General has 45 days from when the claim is filed to object in writing. The Attorney General may request a single 45-day extension of time, upon a showing of good cause.
- 6) Authorizes the CVCB to issue its recommendation for payment to the Legislature within 60 days after the allotted time period, if the Attorney General declines to object.
- 7) Provides that upon receipt of the Attorney General's objection, the CVCB shall fix a time and place for the hearing of the claim, and shall provide notice to the claimant and the Attorney General at least 15 days prior to the fixed time for the hearing. At the hearing the Attorney General shall bear the burden of proving by clear and convincing evidence that the claimant committed the acts constituting the offense. If the Attorney General fails to meet this burden, the CVCB shall recommend to the Legislature payment of the compensation

sum.

- 8) States that a conviction which is reversed and dismissed is no longer valid, thus to establish that a claimant is not entitled to compensation, the Attorney General may not rely on the following facts to establish that the claimant is not entitled to compensation:
 - a) That the state still maintains that the claimant is guilty of the crime for which they were wrongfully convicted;
 - b) That the state defended the conviction against the claimant through court litigation; or,
 - c) That there was a conviction.
- 9) States also that the Attorney General may not rely solely on the trial record to establish that the claimant is not entitled to compensation.
- 10) Provides that a presumption does not exist in any other proceeding if the claim for compensation is denied, and no res judicata or collateral estoppel finding shall be made in any other proceeding if the claim for compensation is denied.
- 11) Makes other conforming changes.

EXISTING LAW:

- 1) Establishes procedures for the filing and hearing of a petition for a writ of habeas corpus, which allows a person to challenge their incarceration or related restraint as unlawful. (Pen. Code, §§ 1474-1509.1.)
- 2) States that a writ of habeas corpus may be prosecuted for, but not limited to, the following reasons:
 - a) False evidence that was substantially material or probative on the issue of guilt or punishment was introduced against a person at a hearing or trial relating to the person's incarceration;
 - b) False physical evidence, believed by a person to be factual, probative, or material on the issue of guilt, which was known by the person at the time of entering a plea of guilty, which was a material factor directly related to the plea of guilty by the person; or,
 - c) New evidence, as defined, exists that is credible, material, presented without substantial delay, and of such decisive force and value that it would have more likely than not changed the outcome at trial. (Pen. Code, § 1473, subd. (b).)
- 3) Authorizes a person no longer unlawfully imprisoned or restrained to prosecute a motion to vacate a judgment for any of the following reasons:
 - a) Newly discovered evidence of fraud by a government official that completely undermines the prosecution's case, is conclusive, and points unerringly to his or her innocence;

- b) Newly discovered evidence that a government official testified falsely at the trial t and that the testimony of the government official was substantially probative on the issue of guilt or punishment; or,
- c) Newly discovered evidence of misconduct by a government official committed in the underlying case that resulted in fabrication of evidence that was substantially material and probative on the issue of guilt or punishment. Evidence of misconduct in other cases is not sufficient to warrant relief under this paragraph. (Pen. Code, § 1473.6, subd. (a).)
- 4) Authorizes a person who is no longer in criminal custody to file a motion to vacate a conviction or sentence when newly discovered evidence of actual innocence exists that requires vacation of the conviction or sentence as a matter of law or in the interests of justice. (Pen. Code, § 1473.7, subd. (a)(2).)
- 5) Requires the court to inform a person whose conviction has been set aside based upon a determination that the person was factually innocent of the charge of the availability of indemnity for persons erroneously convicted and the time limitations for presenting those claims to the CVCB. (Pen. Code, §§ 851.86, 4900.)
- 6) States that if a person has secured a declaration of factual innocence, the finding shall be sufficient grounds for compensation by the CVCB. Upon application, the CVCB shall, without a hearing, recommend to the Legislature that an appropriation be made. (Penal Code, § 851.865.)
- 7) Provides that if the district attorney or the Attorney General stipulates to or does not contest the factual allegations underlying one or more grounds for granting a writ of habeas corpus or a motion to vacate a judgement, the facts underlying the basis for the court's ruling shall be binding on the Attorney General, the factfinder, and the CVCB. (Pen. Code, § 1485.5, subd. (a).)
- 8) States that in a contested or uncontested proceeding, the express factual findings made by the court in considering a petition for habeas corpus, a motion to vacate judgment, or an application for a certificate of factual innocence, shall be binding on the Attorney General, the factfinder, and the CVCB. (Pen. Code, § 1485.5, subd. (c).)
- 9) States that, in a contested proceeding, if the court has granted a writ of habeas corpus or when the court vacates a judgment, and the court has found that the person is factually innocent, that the finding shall be binding on the CVCB, and upon application by the person, the CVCB shall, without a hearing, recommend to the Legislature that an appropriation be made and the claim paid. (Pen. Code, § 1485.55, subd. (a).)
- 10) Provides that, in a contested or uncontested proceeding, if the court has granted a writ of habeas corpus or vacated a judgment, as specified, the person may move for a finding of factual innocence that the crime with which they were charged was either not committed at all or, if committed, was not committed by the petitioner. The burden of proof is preponderance of the evidence. (Pen. Code, § 1485.55, subd. (b).)
- 11) States that if the court makes a finding that the petitioner has proven their factual innocence by a preponderance of the evidence, the CVCB shall, without a hearing, recommend to the

- Legislature that an appropriation be made and any claim filed shall be paid. (Pen. Code, § 1485.55, subd. (c).)
- 12) States that a presumption does not exist in any other proceeding for failure to make a motion or obtain a favorable ruling on factual innocence. (Pen. Code, § 1485.55, subd. (d).)
- 13) Provides that any person who was convicted of a felony and imprisoned in the state prison or county jail for that conviction, is granted a pardon by the Governor for the reason that the crime with which they were charged was either not committed at all or, if committed, was not committed by them, or who, being innocent of the crime with which they were charged for either of the foregoing reasons, may present a claim against the state to the CVCB for the pecuniary injury sustained through their erroneous conviction and imprisonment. (Pen. Code, § 4900.)
- 14) Sets the rate of compensation at \$140 per day of incarceration served, and specifies that this appropriation shall not be considered gross income for state tax purposes. (Pen. Code, § 4904.)
- 15) Gives erroneously convicted and pardoned individuals ten years after acquittal, pardon or release of custody to file a claim against the state. (Pen. Code, § 4901.)
- 16) States that if a person has secured a declaration of factual innocence or if the court has granted a writ of habeas corpus or vacated a judgement and has found that the person is factually innocent, the CVCB, shall, within 30 days of the presentation of the claim, calculate compensation and recommend to the Legislature payment of that sum. For any other claim, the Attorney General shall respond to the claim within 60 days or request an extension of time, upon a showing of good cause, and the CVCB shall fix a time and place for the hearing of the claim. (Pen. Code, § 4902, subd. (a)-(b).)
- 17) States that at the hearing the claimant shall introduce evidence in support of the claim and the Attorney General may introduce evidence in opposition thereto. The claimant shall prove the facts set forth in the statement constituting the claim, including the fact that the crime with which they were charged was either not committed at all, or, if committed, was not committed by the claimant, and the injury sustained by them through their erroneous conviction and incarceration. (Pen. Code, § 4903, subd. (a).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) Author's Statement: According to the author, "SB 446 would clear hurdles that are now in place for the wrongly convicted to be compensated for time they spent unjustly in prison.

"This bill would put the burden on the Attorney General's office in compensation claims – rather than require the person who's been wrongly convicted to prove they are innocent.

"It would require the Attorney General to object to only those claims in which they believe the person should not be compensated. The Attorney General must then prove by clear and convincing evidence that the claimant is not entitled to compensation. "If the AG doesn't take up the case, the compensation claims would go forward. The California Victim Compensation Board would be required to approve, set the claim amount and send to the Legislature for final approval.

"Many have spent years, or even decades, behind bars before their convictions are overturned.

"Since 1989, there have been 212 California inmates who have obtained court reversals of their convictions and have been released from prison after spending years fighting to prove their wrongful conviction and decades unjustly behind bars, according to the National Registry of Exonerations.

"However, once these wrongly convicted persons have obtained court reversals, they must re-litigate their case to ensure they are fairly compensated.

"Those who seek a claim for compensation are required to go to the California Victim Compensation Board. Currently, they must prove their innocence all over again – but are required to bring in evidence they didn't even need in court to overturn their conviction.

"Hurdles include providing added evidence such as DNA, having law enforcement agree that the person is innocent, or identifying the true perpetrator.

"This is not required for a court reversal.

"This has proven to be an unfair and unjust burden on people who were already determined to be wrongly convicted.

"Of the 120 compensation cases since the current system has been in place, only 46, or 38%, have been approved, according to the California Victim's Compensation Board.

"Repairing an unfair and unjust compensation system is the least we should do for people who were wrongly locked up often for decades."

2) Wrongful Conviction Compensation Claims: Existing law allows a person who has been wrongfully convicted of a felony and imprisoned to file a claim for compensation at a rate of \$140 per day of imprisonment. (Pen. Code, §§ 4900, 4904.)

If a claimant has first obtained a declaration of factual innocence from a court (Pen. Code, § 851.86), this finding is binding on the CVCB (Pen. Code, §§ 851.865). No hearing is required; the finding is sufficient grounds for payment of compensation. (*Ibid.*; Pen. Code, § 4902, subd. (a).)

Similarly, if in a contested proceeding, the court has granted a writ of habeas corpus or vacated a judgment, and has found that the person is factually innocent, that finding is binding on the CVCB and is sufficient grounds for payment of compensation without a hearing. (Pen. Code, §§ 1485.55, subd. (a), 4902, subd. (a).)

On the other hand, if in a contested or uncontested proceeding, the court has granted a writ of habeas corpus or vacated a judgment based on newly discovered evidence of fraud, misconduct, or false testimony of a government official, or newly discovered evidence of actual innocence, that finding is insufficient grounds in-an-of-itself for payment of compensation without a hearing. Instead, the claimant must obtain a finding of factual innocence, demonstrating by a preponderance of evidence that the crime with which they were charged was not committed at all or, if committed, was not committed by them. (Pen. Code, §§ 1485.55, subds. (b) & (c), 4902, subd. (a).)

For claimants who have not obtained a declaration of factual innocence, the Attorney General has 60 days to respond to the claim or request an extension of time, upon a showing of good cause. (Pen. Code, § 4902, subd. (a).) Upon receipt of the response from the Attorney General, or if the time for a response elapses, the CVCB must set a time and place for the hearing. (Pen. Code, § 4902.) In order to be successful on a claim of wrongful conviction, the claimant must show that (1) the crime with which they were charged was either not committed at all or if committed, was not committed by them, and (2) the pecuniary injury sustained by them through their erroneous conviction and imprisonment. (Pen. Code, § 4903.) The Attorney General may introduce evidence in opposition of the claim. (*Ibid.*) At the hearing, the board considers all of the evidence presented and makes a determination as to whether the claimant has met the requisite burden of proof.

This bill would shift the burden of proof from the claimant to prove that they are entitled to compensation onto the Attorney General to prove that the claimant is not entitled to compensation, in specified cases. Specifically, this bill would provide that if a state or federal court grants a writ of habeas corpus or if a state court grants a motion to vacate based on newly discovered evidence of fraud, misconduct, or false testimony of a government official, or newly discovered evidence of actual innocence, and as a result of either or those actions the charges are dismissed or the person is acquitted of the charges on a retrial, the person is entitled to payment on their claim without a separate hearing, unless the Attorney General objects in writing within 45 days of the filing of the claim for compensation. The CVCB would then be required to hold a hearing where the Attorney General would have the burden of proving by clear and convincing evidence that the claimant committed the acts constituting the offense. If the Attorney General fails to meet this burden, the CVCB must recommend to the Legislature payment of the compensation sum.

This bill would also provide that in an uncontested proceeding – not just a contested proceeding – if the court has granted a writ of habeas corpus or vacated a judgment, and has found that the person is factually innocent, that finding is binding on the CVCB and is sufficient grounds for payment of compensation without a hearing.

3) Writ of Habeas Corpus: Habeas corpus, also known as "the Great Writ", is a process guaranteed by both the federal and state constitutions to obtain prompt judicial relief from illegal restraint. The functions of the writ are set forth in Penal Code section 1473, subdivision (a): "Every person unlawfully imprisoned or restrained of his or her liberty, under any pretense whatever, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment or restraint." Penal Code section 1473, subdivision (d) specifies that "[t]his section does not limit the grounds for which a writ of habeas corpus may be prosecuted...." A writ of habeas corpus may be prosecuted for, but not limited to, the

following reasons:

- a) False evidence that is substantially material or probative on the issue of guilt, or punishment was introduced against a person at any hearing or trial relating to his incarceration;
- b) False physical evidence believed by a person to be factual, material or probative on the issue of guilt, which was known by the person at the time of entering a plea of guilty and which was a material factor directly related to the plea of guilty by the person; and,
- c) Any allegation that the prosecution knew or should have known of the false nature of the evidence is immaterial to the prosecution of a writ of habeas corpus. (Pen. Code, § 1473, subd. (b).)
- 4) Motion to Vacate the Judgment: After having been released from imprisonment or other restraint, the writ of habeas corpus is no longer available to challenge a conviction. However, other means are available to challenge the conviction. This includes a motion to vacate the judgment of conviction. Such motions may be pursued in a couple of situations, including when new evidence is discovered that tends to prove the defendant is innocent, and when it is discovered that false or fabricated evidence was used in trial and it was probative and substantial in proving the defendant's guilt. (See Pen. Code, §§ 1473.6 and 1473.7, subd. (a)(2).)
- 5) Argument in Support: According to the California Innocence Coalition, the sponsor of this bill, "California has long recognized its obligation to compensate the innocent for their wrongful incarceration. However, the current process is inefficient, unduly burdensome, and not consistently just. Current law allows a wrongfully incarcerated individual to petition the California Victim's Compensation Board (VCB) within ten years of their release for compensation of \$140 for each day of their wrongful incarceration. However, in order to receive compensation, exonerated persons must prove either to a court or to the VCB by a preponderance of the evidence, that a crime was either not committed or, if committed, that they were not the perpetrator of the crime. For our clients, a court has already found that they were wrongfully convicted by the State and reversed their conviction, restoring the presumption of innocence. Yet, even though the State has dismissed the charges or the person was acquitted after a retrial the individual must then, through additional litigation, affirmatively prove that they are innocent to receive compensation. The claims process typically takes 2.5 years to complete and involves lengthy litigation, leaving many of our clients without compensation at all.

"SB 446 would ensure a more fair process by shifting the burden of proof to the state to prove why an individual is not entitled to compensation. Instead of placing the burden of proof on the claimant to prove to the Victims Compensation Board that they are factually innocent, the burden instead shifts to the Attorney General to object to only those claims in which they believe the person should not be compensated. The Attorney General must then prove by clear and convincing evidence that the claimant is not entitled to compensation.

"The wrongfully convicted have already lost years of their lives proving their innocence in the Courts. These individuals deserve a just and comprehensive process to ensure that they are rightfully compensated. We believe SB 446 will do just that."

6) Prior Legislation:

- a) SB 1137 (Monning), of the 2019-2020 Legislative Session, would have made a finding of factual innocence at an uncontested hearing binding on the CVCB for purposes of a wrongful conviction compensation claim, and would have required the CVCB to order compensation if a claimant established by a preponderance of the evidence that no reasonable jury would find them guilty beyond a reasonable doubt based on the evidence presented to CVCB. SB 1137 was not heard in the Senate Public Safety Committee.
- b) SB 269 (Bradford), Chapter 473, Statutes of 2019, extended the statute of limitations for when a wrongfully convicted individual can file a claim with the CVCB from two years to ten years after exoneration or release.
- c) SB 321 (Monning), of the 2017–2018 Legislative Session, would have required the Governor to appoint a special master to oversee all claims for compensation presented to CVCB in wrongful conviction cases. SB 321 was held in the Senate Appropriations Committee.
- d) SB 1134 (Leno), Chapter 785, Statutes of 2016, codified a standard for habeas corpus petitions filed on the basis of new evidence.
- e) SB 1058 (Leno), Chapter 623, Statutes of 2014, allowed a writ of habeas corpus when evidence given at trial has subsequently been repudiated by the expert that testified or undermined by later scientific research or technological advances.
- f) SB 618 (Leno), Chapter 800, Statutes of 2013, streamlined and provided clarity to the process for compensating exonerated persons.
- g) AB 316 (Solorio), Chapter 432, Statutes of 2009, extended the timeline for filing claims with CVCB from six months to two years, allowed a finding of factual innocence to be used as proof in a claim before CVCB, and extended the statute of limitations for legal malpractice where the plaintiff has obtained a finding of factual innocence.

REGISTERED SUPPORT / OPPOSITION:

Support

California Innocence Coalition: Northern California Innocence Project, California Innocence Project, Loyola Project for The Innocent (Sponsor)

ACLU California Action

Alameda County Probation

American Civil Liberties Union/northern California/southern California/san Diego and Imperial Counties

California Attorneys for Criminal Justice

California Catholic Conference

California Coalition for Women Prisoners

California Public Defenders Association

Contra Costa County Probation Department
Drug Policy Alliance
Ella Baker Center for Human Rights
Initiate Justice
Los Angeles County District Attorney's Office
National Association of Social Workers, California Chapter
Prosecutors Alliance California
San Francisco Public Defender
San Mateo County Participatory Defense
We the People - San Diego

Opposition

None

Analysis Prepared by: Cheryl Anderson / PUB. S. / (916) 319-3744

Date of Hearing: July 13, 2021 Counsel: Nikki Moore

ASSEMBLY COMMITTEE ON PUBLIC SAFETY Reginald Byron Jones-Sawyer, Sr., Chair

SB 804 (Glazer) - As Amended May 20, 2021

SUMMARY: Require the California Conservation Corps (CCC), in partnership with the Department of Forestry and Fire Protection (Cal Fire) and the Department of Corrections and Rehabilitation (CDCR), to establish a forestry training center in northern California and to provide job readiness for entry-level forestry and vegetation management jobs for formerly incarcerated individuals. Specifically, **this bill**:

- 1) States that, upon appropriation by the Legislature, on or before December 31, 2023, CCC, Cal Fire and CDCR shall establish a forestry training center in northern California to provide enhanced training, education, work experience, and job readiness for entry-level forestry and vegetation management jobs.
- 2) Establishes that the training center shall focus on forestry, and include counseling, mentorship, supportive housing, health care, and educational services as identified in accordance with the CCC Education and Employment Reentry Program ("CCC Reentry Program").
- 3) Provides that the training center may include training modules on the activities identified in as priorities for the CCC Reentry Program.
- 4) Requires the CCC director to enroll formerly incarcerated individuals and prioritize enrollment for those formerly incarcerated individuals who have done either of the following:
 - a) Successfully served on a CCC program crew and were recommended by the Director of Cal Fire and the Secretary of CDCR. Cal Fire or the Secretary of CDCR may designate a person from the respective department to make this recommendation.
 - b) Successfully served on a hand crew at the county level and were recommended for participation by county probation and county fire departments.
- 5) Authorizes the director to enroll corpsmembers and local community conservation corpsmembers at the training center if funding and resources allow.
- 6) States that successful completion of a training program at the training center shall constitute qualifying experience for an entry-level forestry or vegetation management position at a state agency.
- 7) Requires, commencing Dec. 31, 2023, and annually thereafter, the CCC to include, in the report required pursuant to this section, a reporting of the information related to formerly incarcerated individuals enrolled in corps programs or centers established to serve formerly

incarcerated individuals, including, but not limited to, the CCC Reentry Program, the Ventura Training Center, the forestry training center, and any other centers or programs created by the corps to exclusively serve formerly incarcerated individuals.

EXISTING LAW:

- 1) Establishes the CCC in the Natural Resources Agency and requires the CCC to implement and administer the conservation corps program. (Pub. Resources Code, § 14001.)
- 2) Directs CCC program activities, including the management of environmentally important lands and water, public works projects, facilitating public use of resources, assistance in emergency operations, assistance in fire prevention and suppression, energy conservation, and environmental restoration. (Pub. Resources Code, § 14300.)
- 3) Provides that corps members serve for one year with the possibility of an extension. Requires the CCC, in conjunction with the Employment Development Department (EDD), to place an emphasis on developing and executing plans to assist corps members in obtaining employment following their participation in the CCC. (Pub. Resources Code, § 14302.)
- 4) Provides that the director may employ special corps members without regard to their age so that the corps may draw upon their special skills which may contribute to the attainment of the objectives of the program. (Pub. Resources Code, § 14303.)
- 5) Authorizes the director to recruit and enroll corps members and special corps members to contribute to the objectives of the program. (Pub. Resources Code, § 14306, subd. (a).)
- 6) Authorizes the director to adopt criteria for selecting applicants for enrollment in the corps program, including criteria for individuals convicted of a crime described in the California Uniform Controlled Substance Act. Requires the director to take into account, when adopting this criteria, the health, safety, and welfare of the public and the corps, program participants, and staff. (Pub. Resources Code, § 14306, subd. (b).)
- 7) Authorizes the director of the CCC to select applicants who are on probation, parole, post release community supervision, or mandatory supervision. Requires the director of the CCC to consider an applicant's overall fitness to join the corps, which includes, but is not limited to, an assessment of the following: any potential impacts the applicant may have on public safety as well as the safety of other members of the corps, whether the applicant is required to register as a sex offender, and whether the applicant is on lifetime parole. (Pub. Resources Code, § 14306.5.)
- 8) Provides that fire prevention, fire suppression, and disaster relief are a major emphasis of the program. (Pub. Resources Code, § 14307.)
- 9) Establishes the Forestry Corp Program and specifies the following program objectives: Develop and implement forest health projects; Establish forestry corps crews; Provide assistance to corps members to obtain forestry and forest technician degrees and certificates; Train corps members to operate forestry equipment; and Create pathways from the corps to degree programs and jobs. (Pub. Resources Code, §§ 14410, 14411.)

- 10) Authorizes the director of the CCC to pursue partnerships with community colleges, trade associations, forest and timber industries, vocational education institutions, and apprenticeship programs to provide training and experience to members of the corps. (Pub. Resources Code, § 14411.)
- 11) Authorizes the director of the CCC to establish the Education and Employment Reentry Program within the corps and provides that the program may enroll formerly incarcerated individuals who successfully served on a CCC program crew and were recommended for participation as a program member by the Director of CalFire and the Secretary of CDCR. (Pub. Resources Code, § 14415.1.)
- 12) Provides that the CCC Reentry program shall accomplish all of the following objectives:
 - a) Develop, partner with, and create opportunities for the forestry corps program objectives, as specified.
 - b) Collaborate with the EDDto provide access to workforce services.
 - c) Collaborate with nongovernmental organizations dedicated to providing access to counseling, mentorship, supportive housing, health care, and educational opportunities.
 - d) Employ collaborations and partnerships available to the corps consistent with this division. (Pub. Resources Code, § 14415.4.)
- 13) Requires the CCC to submit an annual report to the Legislature of specified education and employment outcomes of corps members following their participation in the CCC. (Pub. Resources Code, § 14424.)
- 14) Establishes CalFire to oversee and administer programs related to forest health and fire prevention and response. (Pub. Resources Code, § 701.)
- 15) Establishes the CCC program to be operated by CDCR in conjunction with CalFire to provide for training and use of inmates assigned to the camps to perform public conservation projects including, but not limited to, forest fire prevention and control, forest and watershed management, recreation, fish and game management, soil conservation, and forest and watershed revegetation. (Pub. Resources Code, § 4951.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) Author's Statement: According to the author, "This legislation would create a center to train formerly incarcerated people in forestry management, thereby reducing the risk of deadly wildfires, while offering these qualified individuals a pathway to gainful employment. One way to reduce the devastation of wildfires is to proactively engage in forestry and vegetation management, including brush clearing. One of the greatest obstacles to this practice, however, is a lack of a trained workforce. This bill seeks to fill that void by establishing a program where graduates would be eligible for an entry-level forestry positions

throughout the state."

2) Corps: The CCC, established by Governor Brown during his first term in 1976, is the oldest and largest state conservation corps program in the country. It is modeled after the 1930s Civilian Conservation Corps. The CCC's motto is "Hard work, low pay, miserable conditions ... and more!"

Since the CCC creation, it has provided over 11 million hours of emergency response for nearly every major California natural disaster including floods, fires, and earthquakes. Although the CCC was originally conceived as a labor source for trail maintenance and restoration, it has evolved to a workforce development program. Corps members learn skills, such as forestry management, energy auditing and installation, emergency services management, and firefighting. Many corps members also receive their high school diplomas and industry certifications at the conclusion of their service. The CCC provides health care (including mental health) to all of its members.

More than 120,000 young adults have participated in the CCC. Approximately 3,000 corps members apply each round for the 1,529 available corps member slots. Across California, the CCC operates 24 centers; nine are residential where corps members live on-site. CCC's residential centers house more than 600 corps members. Corps members must be California residents between the ages of 18 and 25.

3) Ventura Training Center ("VTC"): Cal FIRE, CCC, and CDCR created a firefighter training and certification program at the VTC in Camarillo. Trainees are people on parole who participated in the Conservation Camp Program. VTC provides firefighter training, certifications, and job readiness support to create a pathway for formerly incarcerated individuals to compete for entry-level firefighting jobs with state, federal and local agencies. VTC participants are trained and available to assist in fire suppression, emergency incident response and to perform fire prevention and resource management work. Onsite counselors help participants develop skills to successfully reintegrate into the community. Services include employment skill assessments, money management, technology training, tutoring, career planning, and searching and applying for jobs.

A maximum of 80 cadets are housed at VTC at any one time. The program enrolled 21 cadets in the first year and 45 in the second year. The average age was 32-34. The CCC and its VTC partners have not released outcomes data yet for this program.

4) Is this bill necessary?: The CCC has broad authority to enroll formerly incarcerated people as regular corps members or in it programs. AB 2126 (Eggman), Chapter 635, Statutes of 2018, established the Forestry Corps, which already has crews in northern California. In addition, AB 1668 (Carrillo), Chapter 587, Statutes of 2019, created the Education and Employment Reentry Program to train formerly incarcerated people. Other committees have pointed out that the CCC could create a training center in northern California without this bill.

However, according to the author:

"According to CalFire, in 2020 alone an estimated 4.3 million acres burned due to wildfires. These fires damaged over 10,000 structures and caused 33 fatalities. This

comes after the 2017 and 2018 wildfire seasons, which were the deadliest and most destructive in state history.

"Recognizing that the dangers of wildfires were only increasing, the Senate created the Wildfire Working Group to plan, and introduced a budget framework that prioritizes fire prevention and response efforts. As part of that legislative blueprint, the working group identified four key goals for reducing the risk and impact of wildfires: training and deploying a fire resiliency workforce; implementing modern-day vegetation, forest management, and community hardening plans; expanding consumer access to the homeowners' insurance market; and developing short and long-term funding.

"SB 804 accomplishes several of the goals laid out by the working group. As a collaboration between the Department of Forestry and Fire Protection, California Conservation Corps and the California Department of Corrections and Rehabilitation, this center would accomplish the goal of expanding the workforce and implementing a vegetation and forestry management plan. Thus, this program would be a proactive approach to our state's goal of reducing the toll of wildfires that are increasingly common due to the effects of climate change.

"Further, the center would also reduce recidivism rates by creating a pathway to gainful employment for those who have completed confinement in local jails or state institutions.

"The incarcerated and formerly incarcerated already play an essential role in California's emergency response. Since 1945, CDCR has safely assigned thousands of inmates to fire camps. These individuals provide vital services for the people of California including wildland firefighting. They perform approximately 3,000,000 hours of firefighting work and approximately 7,000,000 hours of community work each year. Additionally, similar programs for the established in Southern California focus on firefighter training for the formerly incarcerated.

"This center would complement the firefighter training center by training a much-needed workforce to decrease fuel loads and improve forest health to achieve our climate and wildfire reduction goals. Therefore, funding this center would an initial step in furthering California's commitment to preventing and reducing the devastating impact of wildfires."

5) Argument in Support: According to *Rubicon Programs*, "Rubicon's mission is to transform East Bay communities by equipping people to break the cycle of poverty. No one service can address the many challenges people living in poverty face — we believe that success comes from participation and achievement in four areas: Assets, Income, Wellness, and Connections. Much of our work is focused on helping formerly incarcerated people successfully reenter the community and find stable, meaningful employment.

"According to CalFire, in 2020 alone an estimated 4,257,863 acres burned due to wildfires. These fires damaged over 10,000 structures and caused 33 fatalities. This comes after the 2017 and 2018 wildfire seasons, which were the deadliest and most destructive in state history.

"Recognizing the dangers of wildfires were only increasing, the Senate outlined four key goals for reducing the risk and impact of wildfires: training and deploying a fire resiliency

workforce; implementing modern-day vegetation, forest management, and community hardening plans; expanding consumer access to the homeowners' insurance market; and developing short and long-term funding.

"SB 804 (Glazer) accomplishes several of these goals. As a collaboration between the Department of Forestry and Fire Protection, California Conservation Corps and the California Department of Corrections and Rehabilitation this center would accomplish the goal of expanding the workforce and implementing a vegetation and forestry management plan. Thus, this program would be a proactive approach to our state's goal of reducing the toll of wildfires that are increasingly common due to the effects of climate change.

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"This center, in contrast, would train a much-needed workforce to decrease fuel loads and improve forest health to achieve our climate and wildfire reduction goals. Therefore, funding this center would an initial step in furthering California's commitment to preventing and reducing the devastating impact of wildfires."

6) **Related Legislation**: AB 278 (McCarty) authorizes the executive director of the California Conservation Corps (CCC) and, in certain circumstances, a school district or county office of education that operates a conservation corps to select an applicant for enrollment in the corps program who is on parole. This bill is currently on the Assembly Appropriations suspense file.

REGISTERED SUPPORT / OPPOSITION:

Support

American Forest Foundation California Public Defenders Association East Bay Municipal Utility District Humboldt Redwood Company LLC

Opposition

None

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