

Date of Hearing: April 2, 2024
Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Kevin McCarty, Chair

AB 2882

(McCarty) – As Introduced February 15, 2024

SUMMARY:

Requires the participation of the heads of a county's department of social services and department of mental health, as well as the head of the county alcohol and substance abuse programs, on each county's Community Corrections Partnership executive committee of the local Community Corrections Partnership (CCP); and requires the CCP to submit the approved local plan for the implementation of the 2011 public safety realignment to the Board of State and Community Corrections (BSCC). Specifically, **this bill**:

- 1) Adds to the list of required participants on a local CCP a representative of a Medi-Cal managed care plan, as defined, that provides the Enhance Care Management benefit and a representative of a community-based organization with experience in successfully providing behavior health treatment services to person who have been convicted of a criminal offense.
- 2) Requires the plan to include an analysis and recommendations of how criminal justice resources may be spent as matching funds for other sources, including, but not limited to, Medi-Cal federal financial participation.
- 3) Expands the parties voting on a county plan for the implementation of the 2011 public safety realignment to include, the head of the county department of social services, the head of the county department of mental health, and the head of the county alcohol and substance abuse programs.
- 4) Provides that, in counties where one or more of the departments for social services, mental health, or alcohol and substance abuse programs are consolidated, the department head shall have the number of votes equivalent to the number of departments they represent.
- 5) Requires the local CCP to submit the accepted county plan annually to the BSCC.
- 6) Requires each county's board of supervisors to attest that the plan has been accepted and is accurate before submitting it to BSCC.
- 7) Make the inclusion in the plan of recommendations to maximize the effective investment of criminal justice resources obligatory, rather than permissive, and requires the those recommendations to include recommendations regarding investment in housing services.

- 8) Requires the plan to include an analysis and recommendations of how criminal justice resources may be spent as matching funds for other sources, including, but not limited to, Medi-Cal federal financial participation.
- 9) Requires the plan to include quantifiable goals for improving the community corrections system, including, but not limited to, all of the following:
 - a) Reducing the daily jail population;
 - b) Reducing jail bookings;
 - c) Reducing the average length of jail stay;
 - d) Increasing postrelease connections to community-based behavioral health services for persons with a serious mental illness or substance use disorder; and,
 - e) Reducing rates of recidivism.
- 10) Requires county goals to include specific targets for reducing disparities for populations disproportionately represented in the community corrections system, including, but not limited to, individuals with a serious mental illness or substance use disorder, Black, Indigenous, people of color, and LGBTQ+ people.
- 11) Requires each county to submit the County Community Corrections Outcomes, Accountability, and Transparency report, as prescribed, annually to the BSCC.
- 12) Requires the report to include all of the following data and information:
 - a) The county's annual allocation of state and federal public safety funds, including for behavioral health care, by category;
 - b) The county's annual expenditure of state and federal public safety funds, including for behavioral health care, by category;
 - c) The amounts of annual and cumulative unspent state and federal public safety funds, including funds in a reserve account, by category;
 - d) The county's annual expenditure of county general funds and other funds, by category, on public safety, including for behavioral health care;
 - e) All administrative costs associated with community corrections, by category;
 - f) All contracted services, including behavioral health services, and the cost of those contracted services, by category;
 - g) The number of behavioral health calls for services received by 911 dispatch;
 - h) The number of jail bookings, including the number of people who screened positive for a serious mental illness or substance use disorder according to a validated behavioral health screening conducted when booked into jail, and the number of people who were

confirmed as having serious mental illness or substance use disorder through a clinical assessment at the jail or as a result of data matching with state or local behavioral health systems;

- i) Length of jail stay;
 - j) The number of people who have a serious mental illness or substance use disorder who are connected to community-based treatment and support upon release from jail or completion of community supervision, by release type;
 - k) The number of people enrolled in Medi-Cal prior to release from jail or completion of community supervision, by release type;
 - l) The number of people who have a serious mental illness or substance use disorder on community supervision, by release type; and,
 - m) The number of persons who are convicted of a new felony or misdemeanor committed within three years of release from custody or committed within three years of placement on supervision for a previous criminal conviction.
- 13) Requires county's board of supervisors to verify that the report is complete and accurate before it is submitted to the BSCC.
- 14) Requires the BSCC to create an accessible Community Corrections Outcomes, Accountability, and Transparency dashboard on its website that includes the following:
- a) Each county's plans, as specified; and,
 - b) The spending and outcomes data, as required, displayed so that changes in rates can be compared year over year and between counties.
- 15) Requires BSCC to ensure definitions, form, and manner of the data and information submitted, as specified, are consistent so that spending and outcomes data can be compared across counties.

EXISTING LAW:

- 1) Authorizes each county to establish in its treasury a Community Corrections Performance Incentives Fund (CCPIF). (Pen. Code, § 1230, subd. (a).)
- 2) Requires, in any fiscal year for which a county receives moneys to be expended for the implementation of this chapter, the moneys, including any interest, to be made available to the county's chief probation officer, within 30 days of the deposit into the fund, for the implementation of the community corrections program authorized by this chapter. (Pen. Code, § 1230, subd. (b).)
- 3) Requires the community corrections program to be developed and implemented by probation and advised by a local CCP, which is to be comprised of specified members. (Pen. Code, §

1230, subd. (b)(1) & (2).)

- 4) Requires funds allocated to probation to be used to provide supervision and rehabilitative services for adult felony offenders subject to local supervision, and to be spent on evidence-based community corrections practices and programs, as specified. (Pen. Code, § 1230, subd. (b)(3).)
- 5) Requires, despite broad discretion, the chief probation officer to devote at least 5 percent of all funding received to evaluate the effectiveness of programs and practices implemented with the allocated funds, except as specified. (Pen. Code, § 1230, subd. (b)(4).)
- 6) Requires each county local CCP to recommend a local plan to the county board of supervisors for the implementation of the 2011 public safety realignment. (Pen. Code, § 1230.1, subd. (a).)
- 7) Requires the plan to be voted on by an executive committee of each county's Community Corrections Partnership consisting of the chief probation officer as chair, the chief of police, the sheriff, the District Attorney, the Public Defender, the presiding judge of the superior court, or their designee, and one department representative as designated by the county board of supervisors for purposes related to the development and presentation of the plan. (Pen. Code, § 1230.1, subd. (b).)
- 8) Requires the plan to be deemed accepted by the county board of supervisors unless the board rejects the plan by a vote of four-fifths of the board, in which case the plan goes back to the Community Corrections Partnership for further consideration. (Pen. Code, § 1230.1, subd. (c).)
- 9) Permits, consistent with local needs and resources, the plan to include recommendations to maximize the effective investment of criminal justice resources in evidence-based correctional sanctions and programs, including, but not limited to, day reporting centers, drug courts, residential multiservice centers, mental health treatment programs, electronic and GPS monitoring programs, victim restitution programs, counseling programs, community service programs, educational programs, and work training programs. (Pen. Code, § 1230.1, subd. (d).)
- 10) Provides that it shall be the duty of the BSCC to collect and maintain available information and data about state and community correctional policies, practices, capacities, and needs, including, but not limited to, prevention, intervention, suppression, supervision, and incapacitation, as they relate to both adult corrections, juvenile justice, and gang problems. The board shall seek to collect and make publicly available up-to-date data and information reflecting the impact of state and community correctional, juvenile justice, and gang-related policies and practices enacted in the state, as well as information and data concerning promising and evidence-based practices from other jurisdictions. (Pen. Code, § 6027.)

FISCAL EFFECT:

Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “AB 2882 will improve transparency and accountability of how we spend our county public safety funding. Doing so will ensure we use every dollar to its fullest potential and reach our goals of reduced recidivism.”
- 2) **California Community Corrections Performance Act of 2009:** Existing law requires Judicial Council to submit an annual comprehensive report to the Governor and the Legislature on the implementation of the California Community Corrections Performance Act of 2009. (Pen. Code, § 1232.) In its most recent report, Judicial Council summarizes the act and its outcomes as follows:

The California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678) was designed to alleviate state prison overcrowding and save state General Fund monies by reducing the number of adult felony probationers sent to state prison—and to meet these objectives without compromising public safety. The SB 678 program allocates a portion of state savings from reduced prison costs to county probation departments that implement evidence-based supervision practices and achieve a reduction in the number of locally supervised felony offenders revoked to state prison. The program has been successful in supporting probation departments’ increased use of evidence-based practices (EBPs) and lowering the percentage of individuals returned to custody without evident negative impact to public safety.

By lowering the number of supervised offenders sent to state prison through the SB 678 performance-based funding mechanism, the program has resulted in allocations to county probation departments ranging from \$88.6 million to \$138.3 million per fiscal year (FY), for a total of \$1.3 billion—including \$122.8 million in FY 2022–23 alone. In addition, in each of the years since the start of the SB 678 program, the state’s overall revocation rate has been lower than the original baseline rate of 7.9 percent. And although the number of offenders revoked has decreased, California’s crime rates have remained below the 2008 baseline levels, with no evidence to suggest that public safety has been negatively affected by the SB 678 program.

A fundamental component of SB 678 is the implementation of EBPs by county probation departments. SB 678 defines evidence-based practices as “supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or postrelease supervision.” Although no probation department in the state has fully implemented EBPs in all facets of supervision, findings from an annual survey indicate that the SB 678 program has been highly successful in increasing the levels of EBP implementation throughout the state. All components of EBPs measured in the survey are substantially higher than they were at baseline. The most significant advancements in EBP implementation occurred in the earliest stages of the program and have stabilized over time. Given these positive outcomes, the state and the counties have an interest in sustaining and expanding on the effectiveness of the SB 678 program.

(Judicial Council, *Report on the California Community Corrections Performance Act of 2009: Findings from the SB 678 Program* (2023) (Aug. 9, 2023) <[lr-2023-CA_Community_Corrections_Performance_Incentives_Act_2009_Penal-Code-1232.pdf](#)> [last visited Mar. 28, 2024].)

The Legislative Analyst’s Office (LAO) also recently analyzed the effectiveness of the SB

678 program. Despite initial success, the LAO determined that it was “unclear whether the program continues to achieve its goals,” largely because of the difficulty proportioning the success between the SB 678 program and other policy changes. (*Achieving the Goals of the SB 678 County Probation Grant Program*, LAO (Oct. 2023) p. 3 <<https://lao.ca.gov/reports/2023/4806/SB-678-Funding-Formula-101023.pdf>> [last visited Mar. 28, 2024].) The LAO recommended creating a new funding formula for the program, specifically one portion based on direct measures of performance and state savings and another portion designed to pay for specific evidence-based practices. (*Ibid.*) As to the latter portion, LAO recommended identifying EBPs to be funded; estimating the level of savings and award amounts for each EBP; establishing total amount for grants for EBPs; and establishing oversight on the use of EBPs. (*Id.* at pp. 19-20.)

This bill would require each county to submit a County Community Corrections Outcomes, Accountability, and Transparency report to BSCC on, among other things, the allocation and expenditure of public safety funds, the services with which it contracts, and specified data on outcomes of people participating in the program. This reporting requirement arguably would support the LAOs recommendation by providing information needed to determine how allocated funds can be spent most effectively.

- 3) **Criminal Justice Realignment:** This bill would require the participation of the heads of a county’s department of social services and department of mental health, as well as the head of the county alcohol and substance abuse programs, on each county’s Community Corrections Partnership executive committee. The committee votes on the county’s local plan for implementation of Criminal Justice Realignment.

AB 109 (Committee on Budget), Chapter 15, Statutes of 2011, enacted Criminal Justice Realignment which, among other things, limited which felons could be sent to state prison, required that more felons serve their sentences in county jails, and affected parole supervision after release from custody. The purposes of Criminal Justice Realignment include reducing recidivism by facilitating the reintegration of low-level offenders into society, and managing incarcerated person more cost-effectively. (See Pen. Code, § 17.5, subd. (a)(5).) However, although not stated in the legislation, one of the main underlying reasons for realignment was concerns for prison overcrowding. (See LAO report: *Refocusing CDCR After the 2011 Realignment*, Feb. 23, 2012, p.3, <https://lao.ca.gov/analysis/2012/crim_justice/cdcr-022312.pdf> [last visited Mar. 28, 2024].)

To this end, realignment did two things: it changed the custodial setting where many persons convicted of a felony would serve their sentence, and it changed the repercussions for violations of supervision after release from custody. As a result, changes were made to how the California Community Corrections Performance Act of 2009 is funded. (Judicial Council, *supra*, at p. 1-2.)

Among other things, this bill would require the CCP to submit its plan for the implementation of the 2011 public safety realignment to the BSCC.

- 4) **Argument in Support:** According to the *Center on Juvenile and Criminal Justice*, “California has successfully decreased its reliance on incarceration, with the combined jail and prison population decreasing by 41% since 2007. However, those housed in county jails are increasingly in need of mental health care. The share of people incarcerated in California

county jails with mental health needs has been steadily increasing in recent decades. Today, 53% of county inmates have mental health needs – up from approximately 20% in 2010.

“Local budgets have not adjusted to meet the needs of the new jail population. 46 counties spend less than 15% of Public Safety Realignment funding on behavioral health, according to an analysis conducted by the Steinberg Institute. 36 counties spend less than 10% of funding on behavioral health.

“Research consistently demonstrates that addressing the behavioral health needs of our justice-involved population reduces recidivism. If local budgets do not reflect the growing behavioral health needs of our jail population, we will not see improvement in reducing recidivism and our overreliance on incarceration.

“In 2011, California shifted responsibility for lower-level felony convictions from state prison and parole to county jail and probation. This major policy shift, known as public safety realignment, tasked counties with reducing recidivism through evidence-based programs, including behavioral health treatment. In exchange, counties received state funds—\$2 billion in fiscal year 2022-23—to carry out this work. Counties determine how annual public safety realignment funds are spent through a stakeholder process known as the Community Corrections Partnership (CCP). A subset of CCP members in each county vote on the final plan that guides how dollars are spent.

“Since public safety realignment, the mental health needs of California’s jail population have sharply risen. At the same time, the state has undertaken major behavioral health reforms intended to support this population and make improvements to how behavioral health data is reported. The largest of these reforms include: (1) the California Advancing and Innovating Medi-Cal (CalAIM) initiative enacted by the Department of Health Care Services (DHCS), including criminal justice components, and (2) Proposition 1, which, if approved by voters on the March 2024 ballot, will include justice-involved people as one focus population for billions of dollars in behavioral health funding.

“Currently, public safety realignment spending and outcomes data do not align with our behavioral health reforms, creating a knowledge gap that prevents California from leveraging every available dollar to meet our statewide goals of reducing recidivism and improving public safety. California now has the opportunity to leverage, expand, and coordinate services that will be invaluable for counties and, more importantly, clients.

“AB 2882 updates the public safety spending process to include broader stakeholder engagement, goal setting, and outcomes tracking. In so doing, this bill will ensure counties have the information to leverage every dollar and meet our statewide goals of reducing recidivism and improving the life outcomes of the community corrections population.”

- 5) **Argument in Opposition:** According to *Rural County Representatives of California*, “The objective of AB 2882 appears to seek reprioritization of an existing community corrections revenue stream to address the behavioral health treatment needs of justice-involved individuals. However, we are concerned that the measure focuses on the oversight and planning associated with a single subaccount in isolation, without considering (1) that the justice-involved population realigned to counties pursuant to AB 109 in 2011 has many needs, including but not limited to behavioral health treatment needs, (2) other revenue sources brought to bear in supporting the populations in counties’ care, and (3) other

important policy changes that took place concurrent to 2011 Realignment, as well as more recent initiatives that fundamentally revise behavioral health funding and service delivery at the local level.

“Our associations agree that the state and counties together must continue exploration of how best to improve behavioral health care for those in our communities, including justice-involved individuals. However, we have a number of specific concerns related to the approach contemplated in AB 2882.”

6) Prior Legislation:

- a) AB 1080 (Ta), Chapter 96, Statutes of 2023, requires the Legislative Analyst’s Office (LAO) to prepare a report evaluating the results of the Criminal Justice Realignment Legislation over the previous ten years.
- b) AB 1783 (Gallagher), of the 2017-2018 Legislative Session, as introduced, would have required the BSCC to collect and analyze data regarding recidivism rates of all persons who receive a felony sentence punishable by imprisonment in a county or who are placed on PRCS, as specified. AB 1783 was amended into an unrelated subject matter.
- c) AB 152 (Gallagher) of the 2017-2018 Legislative Session, would have required, commencing July 1, 2018, BSCC, in consultation with specified stakeholders, to collect and analyze data regarding recidivism rates of all persons who are sentenced and released on or after July 1, 2018, pursuant to 2011 realignment, as specified. This bill would have required the data to be posted quarterly on the BSCC website beginning September 1, 2019. AB 1870 was held on the Assembly Committee on Appropriations' Suspense File.
- d) AB 1870 (Gallagher) of the 2015-16 Legislative Session, would have required, commencing July 1, 2017, BSCC, in consultation with specified stakeholders, to collect and analyze data regarding recidivism rates of all persons who are sentenced and released on or after July 1, 2017, pursuant to 2011 realignment, as specified. This bill would have required the data to be posted quarterly on the BSCC website beginning September 1, 2018. AB 1870 was held on the Assembly Committee on Appropriations' Suspense File.
- e) AB 602 (Gallagher), of the 2013-14 Legislative Session, would have required, commencing July 1, 2016, BSCC, in consultation with specified stakeholders, to collect and analyze data regarding recidivism rates of all persons who are sentenced and released on or after July 1, 2016, pursuant to 2011 realignment, as specified. This bill would have required the data to be posted quarterly on the BSCC website beginning September 1, 2017. AB 602 was held on the Assembly Committee on Appropriations' Suspense File.
- f) AB 2521 (Hagman), of the 2013-14 Legislative Session, would have required, commencing July 1, 2015, BSCC, in consultation with specified stakeholders, to collect and analyze data regarding recidivism rates of all persons who are sentenced and released on or after July 1, 2015, pursuant to 2011 realignment, as specified. This bill would have required the data to be posted quarterly on the BSCC website beginning September 1, 2016. AB 2521 was held on the Senate Committee on Appropriations' Suspense File.
- g) AB 109 (Committee on Budget), Chapter 15, Statutes of 2011, enacted Criminal Justice Realignment which, among other things, limited which felons could be sent to state

prison, required that more felons serve their sentences in county jails, and created PRCS.

- h) SB 678 (Leno), Chapter 608, Statutes of 2009, created the California Community Corrections Performance Incentives Act of 2009 which would establish a system of performance-based funding to support evidence-based practices relating to the supervision of adult felony probationers.

REGISTERED SUPPORT / OPPOSITION:

Support

Anti Recidivism Coalition
California Alliance for Youth and Community Justice
California State Association of Psychiatrists (CSAP)
Californians for Safety and Justice
Californians United for A Responsible Budget
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice (CURYJ)
Felony Murder Elimination Project
Friends Committee on Legislation of California
Initiate Justice
LA Defensa
Nami Contra Costa
Rubicon Programs
Santa Cruz Barrios Unidos
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy
Steinberg Institute
The Miles Hall Foundation
Vera Institute of Justice
Young Women's Freedom Center

1 Private Individual

Opposition

California State Sheriffs' Association
Chief Probation Officers' of California (CPOC)
CSAC
Rural County Representatives of California
Urban Counties of California (UCC)

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