
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 1304 **Hearing Date:** July 31, 2020
Author: Waldron
Version: July 2, 2020
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *California MAT Re-Entry Incentive Program*

HISTORY

Source: Author

Prior Legislation: SB 843 (Comm. on Budget and Fiscal Review), Ch. 33, Stats. 2016

Support: Alcohol Justice; California Council of Community Behavioral Health Agencies; California Access Coalition; Californians for Safety and Justice; #cut50; 1 individual

Opposition: None known

Assembly Floor Vote: Not relevant

PURPOSE

The purpose of this bill is to establish the California MAT Re-Entry Incentive Program which would make a parolee, except as specified, eligible for a reduction in the period of parole if the person successfully participates in a substance abuse treatment program, as specified, including medication-assisted treatment.

Existing law requires the Department of Corrections and Rehabilitation (CDCR) to expand substance abuse treatment services in prisons to accommodate at least 4,000 additional inmates who have histories of substance abuse. Requires a substance abuse treatment program offered by CDCR to include a peer counseling component, except as specified. (Pen. Code, § 2694, subs. (a) & (b).)

Existing law requires CDCR, under the oversight of the Undersecretary of Health Care Services, to establish a three-year pilot program at one or more institutions that will provide a medically assisted substance use disorder treatment model for treatment of inmates with a history of substance use problems. Requires the program to offer a continuum of evidenced-based care that is designed to meet the needs of the persons being served and that is appropriate for a correctional setting. Requires the department to consider all of the following in establishing the program:

- Access to services during an inmate's enrollment in the pilot program.
- Access to subacute detoxification and medical detoxification, as necessary.
- Comprehensive pretreatment and post-treatment assessments.

- Ongoing evaluation of an inmate's program needs and progress at least every 90 days, and appropriate adjustment of treatment based on that evaluation.
- Services provided by professionals for whom substance use disorder treatment is within the scope of their practice.
- Referrals for medically assisted care and prescription of medication-assisted treatment.
- Provision of behavioral health services, including the capacity to treat co-occurring mental illness.
- Access to medication-assisted treatment throughout the period of incarceration up to and including immediately prior to release.
- Linkages to community-based treatment upon parole. (Pen. Code, § 2694.5, subd. (a).)

Existing law requires CDCR to provide annual reports to the Legislature on the pilot program. (Pen. Code, § 2694.5, subd. (b).)

Existing law requires the following persons released from prison prior to, or on or after July 1, 2013, be subject to parole under the supervision of CDCR:

- A person who committed a serious felony listed in Penal Code section 1192.7, subdivision (c);
- A person who committed a violent felony listed in Penal Code section 667.5, subdivision (c);
- A person serving a Three-Strikes sentence;
- A high risk sex offender;
- A mentally disordered offender;
- A person required to register as a sex offender and subject to a parole term exceeding three years at the time of the commission of the offense for which they are being released; and,
- A person subject to lifetime parole at the time of the commission of the offense for which they are being released. (Pen. Code, § 3000.08, subs. (a) & (c).)

This bill provides that a person released from state prison subject to the jurisdiction of, and parole supervision by, CDCR, who has been enrolled in, or successfully completed, an institutional substance abuse program, and who successfully participates in a substance abuse treatment program that employs a multifaceted approach to treatment, including medically assisted treatment (MAT), is eligible for a 90-day reduction to the period of parole for every six months of treatment successfully completed, up to a maximum 180-day reduction.

This bill does not apply to individuals who have been convicted of specified sex offenses.

This bill provides that this program is contingent upon the appropriation to the State Department of Health Care Services of funds received pursuant to a federal Substance Abuse and Mental Health Services Administration State Opioid Response Grant, announced in the Funding Opportunity Announcement (FOA) TI-20-012. Requires, to the extent consistent with the terms of the grant, that the sum of one million dollars of the grant funds appropriated for these purposes be allocated to CDCR for use in implementing the program created by this bill.

This bill requires CDCR to collect data and analyze utilization and program outcomes. Requires that information in the report include the same data required in Section 2694.5.

COMMENTS

1. Need for This Bill

According to the author:

At least 95 percent of individuals in state prisons will eventually return to communities and we need to enable and encourage their successful reintegration. It is also becoming increasingly clear that the addition of MAT for the treatment of justice-involved individuals not only increases the likelihood of successful treatment but reduces recidivism. (*National Sheriffs Association "Reducing Recidivism in Jails with Medication Assisted Treatment" November 2017 page 1*) AB 1304 will add an evidence-based practice of providing "incentives" for Parolees to continue their MAT in the community and reward them by reducing their time on parole.

The reentry phase of any correctional program is critical. Research demonstrates that the mortality rate among opioid addicts exiting prisons is at its highest level upon release. The risk for overdose and death is greater during this time due to the lowered tolerance to opioids. Providing "incentives" for program completion is a key correctional practice in most evidence-based programs.

The Substance Abuse and Mental Health Services Administration (SAMSHA) has noted the process of transitioning from jail or prison back to the community can be overwhelming for persons with an opioid use disorder. Within three months of release from custody, 75% of people who were in prison or jail with an opioid use disorder experience a relapse to opioid use. Alarming, incarcerated persons who are released to the community are between 10 and 40 times more likely to die of an opioid overdose than the general population—especially within a few weeks after reentering society. (<https://blog.samhsa.gov/2019/03/15/breaking-the-cycle-medication-assisted-treatment-mat-in-the-criminal-justice-system>)

Failure to continue MAT upon release from custody places these individuals at high risk for overdose and death. Studies confirm that a three - to eightfold increased risk of drug related deaths within the first 2 weeks of release from prison. (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2955973/>)

AB 1304 will authorize CDCR to construct an evidence-based re-entry program that will improve outcomes for the CDCR MAT (Medication Assisted Treatment)/ICDTP (In-Custody Drug Treatment Program), by addressing parolee adherence to program requirements upon re-entry to the community.

2. Medication Assisted Treatment

Medication-assisted treatment (MAT) is a "whole-patient" approach to treating substance use disorders that uses medication in combination with counseling and behavioral therapies. MAT is clinically effective in treating substance use disorders, including opioid and alcohol use disorders. The Substance Abuse and Mental Health Services Administration (SAMHSA) within the U.S. Department of Health and Human Services describes the mechanics of MAT:

MAT is primarily used for the treatment of addiction to opioids such as heroin and prescription pain relievers that contain opiates. The prescribed medication operates to normalize brain chemistry, block the euphoric effects of alcohol and opioids, relieve physiological cravings, and normalize body functions without the negative effects of the abused drug. Medications used in MAT are approved by the Food and Drug Administration (FDA), and MAT programs are clinically driven and tailored to meet each patient's needs.

(<https://www.samhsa.gov/medication-assisted-treatment/treatment#medications-used-in-mat>)

MAT has been shown to improve patient survival, increase retention in treatment, decrease illicit opiate use and other criminal activity among people with substance use disorders, increase patients' ability to gain and maintain employment, and improve birth outcomes among women who have substance use disorders and are pregnant. (*Id.*) SAMHSA reports that MAT is underused and attributes this to misconceptions about the treatment model, discrimination against MAT patients despite state and federal laws prohibiting such discrimination, lack of training for doctors with respect to MAT, and negative opinions toward MAT among health care professionals and in communities. (*Id.*)

3. CDCR's Integrated Substance Use Disorder Treatment Program

The 2019-2020 budget allocated a significant amount of funding through the 2021-2022 fiscal year to implement an integrated substance use disorder treatment program throughout the state's prisons. The program includes the use of MAT to treat inmates with opioid and alcohol use disorders, a redesign of the current cognitive behavioral treatment curriculum, the development and management of inmate treatment plans, as well as substance use disorder-specific pre-release transition planning. The statewide MAT program is an expansion of a MAT pilot program previously operated by the Receiver at three state prisons.

4. Parole Provisions in Public Safety Trailer Bill

The May Revision to the January Budget included a proposal to cap parole terms for most parolees at 24 months, establish earned discharge for non-Penal Code section 290 registrants at 12 months, and establish earned discharge at 18 months for specified Penal Code 290 registrants. AB 88, the Public Safety Trailer Bill, amends the proposal in the May Revision. Specifically, the trailer bill:

- Limits the period of parole for a person sentenced to a determinate term to 2 years. Requires the Division of Parole Operations (DAPO) to review for possible discharge from parole no later than 12 months after release, and requires the person to be discharged from parole if there have been no violations and the person is not a mentally disordered offender
- Limits the period of parole for a person sentenced to a life term to 3 years. Requires DAPO to review and refer to the Board of Parole Hearings (BPH) for possible discharge no later than 12 months after release. If BPH decides to retain the person on parole, a review for discharge must take place no later than 24 months after release.

- Provides that parole caps and early discharge from parole does not apply to individuals currently incarcerated for an offense requiring registration as a sex offender
- Does not apply to a person whose parole term at the time of the commission of the offense is less than the parole term prescribed in the trailer bill
- Does not apply to a person whose review period at the time of the commission of the offense provides for an earlier review period than that prescribed in the trailer bill

AB 1304 is complementary to the trailer bill. It establishes the California MAT Re-Entry Incentive Program. Under the program, a parolee who was enrolled in or successfully completed a substance abuse program while in prison and who successfully participates in a substance abuse treatment program while on parole, including a MAT program, would be eligible for a 90-day reduction of the parole period for every six months of treatment successfully completed, up to a maximum 180-day reduction. This bill excludes individuals who have been convicted of specified sex offenses.

If both AB 1304 and the trailer bill are passed and signed by the Governor, presumably AB 1304 would further reduce the parole period from the newly established parole terms (i.e., parolees could earn a reduction in their parole term for successfully participating in a MAT program or other substance abuse treatment program from either the 2- or 3-year cap established in the trailer bill).

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