
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: AB 920 **Hearing Date:** June 14, 2016
Author: Gipson
Version: September 3, 2015
Urgency: Yes **Fiscal:** No
Consultant: JRD

Subject: *Jails: County Inmate Welfare Funds*

HISTORY

Source: Los Angeles Sheriff's Department

Prior Legislation: AB 1445 (Mitchell) – Chapter 233, Statutes of 2012
AB 2574 (Emmerson) – Chapter 16, Statutes of 2008
SB 718 (Scott) – Chapter 251, Statutes of 2007

Support: California State Association of Counties; California State Sheriffs' Association

Opposition: None known

Assembly Floor Vote: 78 - 0

PURPOSE

The purpose of this bill is to create a program that authorizes the sheriff or county officer responsible for operating jails of the Counties of Alameda, Kern, Los Angeles, Marin, Napa, Orange, Sacramento, San Bernardino, San Francisco, San Diego, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, and Ventura to spend money from the inmate welfare fund for the purpose of assisting indigent inmates with the reentry process within 30 days after the inmate's release from the county jail or other adult detention facility, as specified.

Existing law authorizes a county sheriff to establish, maintain and operate a store in connection with the county jail and for this purpose may purchase confectionary, tobacco and tobacco users' supplies, postage and writing materials, and toilet articles and supplies and sell these goods, articles, and supplies for cash to inmates. (Penal Code § 4025(a).)

Existing law provides that the sale prices of the articles offered for sale at the store shall be fixed by the sheriff. Any profit shall be deposited in the inmate welfare fund to be kept in the treasury of the county. (Penal Code § 4025(b).)

Existing law requires that 10 percent of all gross sales of inmate hobbycraft be deposited in the inmate welfare fund. (Penal Code § 4025(c).)

Existing law provides that any money, refund, rebate, or commission received from a telephone company or pay telephone provider shall be deposited in the inmate welfare fund when the

money, refund, rebate, or commission is attributable to the use of pay telephones which are primarily used by inmates while incarcerated. (Penal Code § 4025(d).)

Existing law provides that the money and property deposited in the inmate welfare fund shall be expended by the sheriff primarily for the benefit, education, and welfare of the inmates confined within the jail. Any funds that are not needed for the welfare of the inmates may be expended for the maintenance of county jail facilities. Maintenance of county jail facilities may include, but is not limited to the salary and benefits of personnel used in the programs to benefit the inmates including, but not limited to, education, drug and alcohol treatment, welfare, library, accounting, and other programs deemed appropriate by the sheriff. Inmate welfare funds shall not be used to pay required county expenses of confining inmates in a local detention system, such as meals, clothing, housing, or medical services or expenses, except that inmate welfare funds may be used to augment those required county expenses as determined by the sheriff to be in the best interests of inmates. An itemized report of these expenditures shall be submitted annually to the board of supervisors. (Penal Code § 4025(e).)

Existing law authorizes the sheriff to expend money from the inmate welfare fund to provide indigent inmates prior to the release from the county jail or other adult correctional facility under the sheriff's jurisdiction with essential clothing and transportation expenses. (Penal Code § 4025(i).)

Existing law creates a pilot program in the counties of Alameda, Kern, Los Angeles, Orange, Sacramento, San Bernardino, San Francisco, San Diego, Santa Barbara, Santa Clara, and Stanislaus. In each county the sheriff, or, in the County of Santa Clara, the chief of correction, may expend money from the inmate welfare fund to provide indigent inmates after release from the county jail or any other adult detention facility under the jurisdiction of the sheriff, or, in the County of Santa Clara, the chief of correction, assistance with the reentry process within 14 days after the inmate's release. The assistance provided may include, but is not limited to, work placement, counseling, obtaining proper identification, education, and housing. This pilot program will expire on January 1, 2015, unless extended. (Penal Code § 4025.5 (sunseted January 1, 2015).)

This bill creates a program that authorizes the sheriff or county officer responsible for operating jails of the Counties of Alameda, Kern, Los Angeles, Marin, Napa, Orange, Sacramento, San Bernardino, San Francisco, San Diego, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, and Ventura to spend money from the inmate welfare fund for the purpose of assisting indigent inmates with the reentry process within 30 days after the inmate's release from the county jail or other adult detention facility.

This bill specifies that the assistance provided may include work placement, counseling, obtaining proper identification, education, and housing.

The bill specifies that money from the inmate welfare fund shall not be used under the program to provide services that are required to be provided by the sheriff or county, as specified.

This bill requires, if a county elects to participate in the pilot program, a county sheriff or county officer responsible for operating a jail to include specified additional information in the itemized report of expenditures to the board of supervisors, including the number of inmates the program served.

This bill makes legislative findings and declarations as to the necessity of a special statute for the counties contained in the legislation and declares that it is to take effect immediately as an urgency statute.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as "of December 9, 2015, 112,510 inmates were housed in the State's 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015." (Defendants' December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).) One year ago, 115,826 inmates were housed in the State's 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants' December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Legislation

According to the author:

While existing law currently allows the sheriff or county officer operating jails to spend money from the inmate welfare fund to provide released inmates with clothes and transportation expenses, it does not help them with work placement, counseling, obtaining proper forms of identification, education or housing.

AB 920 would require and allow the sheriff of county jail to use monies from the Inmate Welfare Fund to provide assistance in the form of work placement, counseling, obtaining proper identification, education, and housing to indigent inmates within 30 days after the inmate's release from the county jail or other adult detention facility. The bill would require a county sheriff or county officer responsible for operating a jail to include specified additional information in the itemized report of expenditures to the board of supervisors, including the number of inmates the program served.

2. Use of Inmate Welfare Fund Money for Reentry Services

An inmate welfare fund (IWF) may be established in each county jail, as specified. (Penal Code § 4025.) The purpose of an IWF is to fund programs that help inmates transition back into the community. Programs include education, drug and alcohol treatment, library service, and counseling. (See Penal Code § 4025(e).) In accordance with the goal of transitioning inmates, money from an IWF may also be used to cover essential clothing and transportation expenses for an indigent inmate prior to release, at the discretion of the Sheriff. (Penal Code § 4025(i).)

The money in the inmate welfare fund is generated by sale of commissary items as well as “any money, refund, rebate, or commission received from a telephone company or pay phone provider when use is attributable to the inmates during incarceration.” (Penal Code § 4025(d).)

In 2007, SB 718 (Scott) (Chapter 251, Stats. of 2007) was enacted into law creating a pilot program to allow sheriffs in specified counties to use funds from the inmate welfare fund, “... to provide indigent inmates, after release from the county jail or any other adult detention facility under the jurisdiction of the sheriff, assistance with the reentry process within 14 days after the inmate's release. The assistance provided may include, but is not limited to, work placement, counseling, obtaining proper identification, education, and housing.” (Penal Code § 4025.5.) Absent further legislative action, this provision of law was to remain in effect only until January 1, 2013.

In 2008, Kern, San Bernardino, and Santa Clara Counties were added to the pilot program allowing the Sheriffs in those counties (or in Santa Clara the Director of Corrections) to utilize inmate welfare funds for reentry services within 14 days of the inmates' release. (AB 2574 (Emmerson), Chapter 16, Stats. of 2008.)

The legislature, in 2012, extended pilot for two years to January 1, 2015, added the counties of Marin, Napa, San Luis Obispo, and Ventura to this pilot program, extended the period of time in which inmate welfare fund money could be used for reentry purposes from 14 to 30 days after

the inmate's release, and added reporting requirements. (AB 1445 (Mitchell), Chapter 233, Stats. of 2012.) The program, thus, sunseted on January 1, 2015.

This legislation would reinstate and make this program permanent. It would, additionally, allow specified counties to use IWF funds to provide indigent inmates assistance with the reentry process within 30 days after the inmate's release. It would allow these counties to use the funds to assist these inmates with work placement, counseling, obtaining proper identification, education and housing. The legislation, additionally, requires any sheriff or county officer that uses IWF funds for this purpose to file an annual report with the county board of supervisors that includes:

- (1) How much money was spent pursuant to this section.
- (2) The number of inmates the program served.
- (3) The types of assistance for which the funds were used.
- (4) The average length of time an inmate used the program.

Given that this legislation does not require the listed counties to use IWF funds for reentry, and that there will likely be numerous pieces of legislation in coming years to expand the authority provided in this bill to other counties, members may wish to consider an amendment applying the provisions of this legislation to all counties.

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