
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 1474 **Hearing Date:** April 19, 2016
Author: Committee on Public Safety
Version: April 7, 2016
Urgency: No **Fiscal:** No
Consultant: MK

Subject: *Public Safety Omnibus*

HISTORY

Source: Various

Prior Legislation: SB 795 (Committee on Public Safety)
SB 1461 (Committee on Public Safety)
SB 514 (Committee on Public Safety) Chapter 59, Stats. 2013
SB 1144 (Strickland) Chapter 867, Stats. 2012
SB 428 (Strickland) Chapter 304, Stats. 2011
SB 1062 (Strickland) Chapter 708, Stats. 2010
SB 174 (Strickland) Chapter 35, Stats. 2009
SB 1241 (Margett) Chapter 699, Stats. 2008
SB 425 (Margett) Chapter 302, Stats. 2007
SB 1422 (Margett) Chapter 901, Stats. 2006
SB 1107 (Committee on Public Safety) Chapter 279, Stats. 2005
SB 1796 (Committee on Public Safety) Chapter 405, Stats. 2004
SB 851 (Committee on Public Safety) Chapter 468, Stats. 2003
SB 1852 (Committee on Public Safety) Chapter 545, Stats. 2002
SB 485 (Committee on Public Safety) Chapter 473, Stats. 2001
SB 832 (Committee on Public Safety) Chapter 853, Stats. 1999
SB 1880 (Committee on Public Safety) Chapter 606, Stats. 1998

Support: California District Attorneys Association

Opposition: None known

PURPOSE

The purpose of this bill is to make technical and corrective changes to various code sections relating generally to criminal justice laws, as specified.

Existing law governs the service of criminal subpoenas on peace officers. (Penal Code § 1328(c))

This bill would allow the district attorney to send a subpoena to a peace officer by electronic means.

Existing law requires a peace officer monitoring traffic to be in a car painted a distinctive color. (Vehicle Code § 40800)

This bill requires the car to be a distinctive color but does not require it be painted.

Existing law lists what should be in a sexual assault collection kit. (Penal Code § 13823.11)

This bill makes clarifying changes to that section.

Existing law governs what shall be in a probation report and who can access them. (Penal Code § 1203.10)

This bill clarifies that probation reports can be shared between probation agencies.

This bill makes other clarifying and technical changes.

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. 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: The bill's provisions make only technical or minor changes to the law; and 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. Method of Subpoenaing a Peace Officer

Existing law sets for the service of criminal subpoenas. This bill would allow a district attorney to subpoena an officer by electronic means. The California District Attorneys Association requested this change stating:

Section 1328 was last amended in 2002. Since that time, both the technology and the widespread use of electronic communications have improved dramatically. Many DA offices now have case management systems that allow them to receive police reports, file charges, and manage and litigate cases through the use of electronic communications rather than paper documents. These systems typically include a procedure for the electronic service of criminal subpoenas on peace officers of police agencies that have agreed to participate in this process.

About a dozen DA offices in California use a case management system that allows them to generate an electronic subpoena for a peace officer employed by a participating agency. The subpoena can be electronically sent to a portal. The peace officer named in the subpoena receives an email directing him or her to go to the portal for the subpoena. Once the peace officer uses his or her credentials to access the portal and open the subpoena, service is complete. The DA will have an electronic record of the service of the subpoena and the appropriate superior officers within the police agency will have access to the portal to monitor issuance and service of the subpoenas.

The main distinction between this newer process and the electronic service specifically authorized by section 1328(c) is that now the electronic subpoena can be sent *directly* to the peace officer named in the subpoena through the portal,

rather than to his or her superior for subsequent service on the officer. This newer technology should permit simpler and more reliable service. Section 1328(c) should be amended to add this third more direct mode of electronic service to the two current options contained in the statute. The statute should also be amended to add the “district attorney” to the “marshal or sheriff” as officials with whom local police agencies may enter into an agreement to receive electronic service of subpoenas. By simply adding an additional option for electronic service, this amendment would not interfere with any agencies that are currently using the procedures authorized under the existing section 1328(c).

3. Marked Traffic Patrol Car

Existing law requires a peace officer on traffic patrol to be in a vehicle *painted* in a distinctive color. According to the California Police Chiefs Association some departments now use a “vehicle wrap” instead of paint, so this amendment deletes the word “painted” and thus just requires the vehicle be a distinctive color.

4. Update Requirements for Sex Assault Kit

Existing law specifies what physical evidence shall be collected from a sexual assault victim. As suggested by the California Clinical Forensic Medical Training Center, this bill makes amendments to this section to conform to updated collection methods including the advent of DNA science and technology.

5. Probation Reports

Existing law specifies what shall be in a probation report and who shall have access to the reports. This bill amends that section to make it clear that probation agencies can share reports with other agencies. According to the Chief Probation Officers of California:

Record requests and transfers between probation departments are routinely made in managing persons on supervised release. Currently, PC 1203.10 does not expressly recognize this practice. This proposal would clarify that probation departments can share probation reports with other probation agencies for the purpose of carrying out the duties of this section pertaining to the care and supervision of supervised persons.

5. Technical Changes

This bill makes other technical changes.

-- END --