
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: SB 42 **Hearing Date:** April 9, 2019
Author: Skinner
Version: December 3, 2018
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *The Getting Home Safe Act*

HISTORY

Source: Young Women's Freedom Center

Prior Legislation: SB 833 (Liu) Chapter 90, Stats. 2014

Support: ACLU; Alcohol Justice; Alliance for Girls; Bay Area Community Services; Berkeley City Council; California Attorneys for Criminal Justice; California Catholic Conference; California Public Defenders Association; Center on Juvenile and Criminal Justice; Disability Rights California; Fathers and Families of San Joaquin; Justice Now; Oakland Privacy; Root and Rebound; San Francisco Bay Area Rapid Transit District; San Francisco Sheriff's Department; San Francisco Taxpayers for Public Safety; Spotlight Girls; Time for Change Foundation; W Haywood Burns Institute; The Women's Building of San Francisco; a number of individuals

Opposition: California State Sheriffs' Association

PURPOSE

The purpose of this bill is for each county sheriff to develop release standards in accordance with the provisions of this bill which will provide the safe release of a person from custody.

Existing law provides that a sheriff may discharge any prisoner from the county jail at such time on the last day such prisoner may be confined as the sheriff shall consider to be in the best interests of the prisoner. (Penal Code § 4024 (a))

Existing law provides that upon completion of a sentence served by a prisoner or the release of a prisoner ordered by the court to be effected the same day, the sheriff may offer a voluntary program to the prisoner to allow that prisoner to stay in the custody facility for up to 16 additional hours or until normal business hours, whichever is shorter, in order to offer the prisoner the ability to be discharged to a treatment center or during daytime hours. (Penal Code § 4024 (b)(1))

Existing law provides that it does not prevent the early release of prisoners as otherwise allowed by law or allow jails to retain prisoners any longer than otherwise required by law without the prisoner's express written consent. (Penal Code § 4024 (b)(2))

Existing law provides that if a prisoner has spotted bail and elects to participate in this program, he or she shall notify the bail agent as soon as possible and practicable of his or her decision to participate. (Penal Code § 4024 (b)(4))

Existing law provides that a sheriff offering this program shall, whenever possible, allow the prisoner volunteering to participate in the program to make a telephone call to either arrange for transportation, or to notify the bail agent. (Penal Code § 4024 (b)(5))

This bill sunsets Penal Code Section 4024 on June 1, 2020.

This bill provides that a county sheriff shall make release standards, release processes, and release schedules of a county jail available to the public and shall post them online to the sheriff's website and shall also make them available to people when they are booked into county jail.

This bill provides that the release standards shall include the list of rights enumerated in this section and the timeframe for the expedient release of a person following the determination to release that person by a judge, jury, or appropriate county staff member.

This bill provides that a person shall have the right to request that, upon his or her release from a county jail, he or she be assisted in entering a drug or alcohol rehabilitation program. The person shall be allowed to make this request, upon or subsequent to, being booked into county jail.

This bill provides that if a person chooses to enter a drug or alcohol rehabilitation program upon release from jail, the county jail shall provide or arrange transportation directly to the rehabilitation program or hospital free of charge immediately upon release.

This bill provides that a person incarcerated in or recently released from a county jail shall have access to up to three free telephone calls from a telephone in the county jail to plan for a safe and successful release and shall also have access to a free cell phone charging station upon release from jail to charge their cell phone.

This bill provides that a sheriff shall offer a person scheduled to be released from jail between the hours of 5 p.m. or sundown, whichever is later, and 8 a.m., the option to voluntarily stay in jail for up to 16 additional hours or until normal business hours, whichever is shorter in order to offer the person the ability to be discharged during daylight hours.

This bill provides that a person shall provide his or her written consent before choosing to stay voluntarily in jail, however that written consent can be revoked at any time.

This bill provides that a person scheduled to be released from county jail between the hours of 8 a.m. and 5 p.m. or sundown, whichever is later, shall be released during that time. If the person is scheduled to be released between the hours of 5 p.m. or sundown whichever is later, and 8 a.m. and that person has declined the option to stay in custody he or she shall be proved the opportunity to choose from both of the following alternatives:

- A safe place to wait for a person he or she knows to pick him or her with adequate and sufficient ability to charge his or her own personal cell phone and access to a free public phone.
- Free transportation to a location of the person's choosing within the county or within the 100-mile radius, whichever is further.

This bill provides that a person who is released from jail after being incarcerated for more than 30 days shall receive at least three days' supply of any necessary medication.

This bill provides that it does not prevent the early release of a person as otherwise allowed by law or allow a county jail to retain a person any longer than otherwise required or allowed by law without the person's express written consent.

This bill provides that a violation of the rights established by this act may be submitted to the Board of State and Community Corrections (BSCC) Ombudsman.

This bill provides that the purpose of developing protocols for receiving and responding to reports of violation of the rights established by this act, BSCC shall convene a stakeholder group that includes women and girls who have been incarcerated to aid this effort.

This bill defines "woman" as a person who self-identifies her gender as a woman.

This bill has an operative date of June 1, 2020.

This bill provides that BSCC shall establish the Late-Night Release Prevention Task Force that shall do both of the following:

- Prepare any and all materials related to the implementation of the Getting Home Safe Act.
- Develop recommended requirements for county jails to maintain records that adequately document the implementation of the Getting Home Safe Act, including how these records will be maintained and made available to the public.

This bill provides that the task force shall submit a report on January 1, 2022 to the relevant policy and budget committees of the Legislature about the progress made by the task force in implementing this section and make suggestions for additional legislation to prevent late-night releases from county jails.

This bill makes a number of uncodified findings and declarations.

COMMENTS

1. Need for This Bill

According to the author:

SB 42 helps people released from county jails get home safely by limiting the practice of unsafe late-night releases, and requiring that people released after hours have access to a phone, a ride home, and other supportive services.

2. Late night release from jail

Under existing law, a sheriff may offer a voluntary program to allow a prisoner who is eligible for release from county jail to stay in the custody facility for up to 16 additional hours or until regular business hours so that the prisoner can be discharged to a treatment center or during daylight hours. The prisoner must consent and can revoke his or her consent at any time.

This bill deletes that provision and instead requires the county sheriff to make release standards that allow for the safe release of a person being released from custody.

3. Release standards

This bill requires a county sheriff to make release standards and to make them available online and to people as they are booked into and while they are in county jail. The release standards shall include the list of rights provided for in this bill and the timeframe of the expedient release of a person following the determination to release that person by a judge, jury or appropriate county staff member.

a) Alcohol and drug rehabilitation

This bill provides that a person shall have the right to request that upon his or her release from a county jail, he or she be assisted in entering a drug or alcohol program. The request can be made when the person is booked or any time after that. If a person chooses to enter a drug or alcohol rehabilitation program, the county jail shall provide or arrange transportation to the program.

What steps need to be taken to get a person in a program? What if there are not appropriate programs available? Is the county jail responsible for figuring out how the program will be paid for etc.?

b) Phone calls

This bill provides that a person incarcerated in or recently released from county jail shall have access to up to three telephone calls from a telephone in the county jail to plan for a safe and successful release and shall have access to a free cell phone charging station upon release from jail to charge his or her personal cell phone.

c) Release between 5 p.m. and 8 a.m.

This bill requires a number of options if a person is released between 5 p.m., or sundown whichever is later, and 8 a.m.:

- i. A person can voluntarily stay up to 16 hours. The person must consent and the consent can be withdrawn at any time.
- ii. The county jail shall provide a safe place to wait for a person to be picked up and that place shall have a cell phone charger and access to a free phone.
- iii. The county jail shall provide free transportation to the location of the person's choosing within the county or 100 mile radius, whichever is further.

Is 5 p.m. (or sundown) to 8 a.m. the appropriate time frame, in some cities is public transportation still available outside those hours? Is the free transportation within the county workable in some of the larger counties?

d) Supply of medication

This bill provides that a person who is released from jail after being incarcerated for more than 30 days shall receive at least three days' supply of necessary medication.

4. Board of State and Community Corrections (BSCC)

a) Violations.

A violation of the rights established by this bill may be submitted to the BSCC ombudsman.

b) Protocols

This bill provides that for purposes of developing protocols, BSCC shall convene a stakeholder group that includes women and girls who have been incarcerated. Women is defined as a person who self-identifies her gender as a woman.

c) Late-Night Release Prevention Task Force

BSCC shall convene a task force composed of relevant stake holders to prepare any material related to the implementation of this bill and to develop and recommend requirement for county jails to maintain records that adequately, including how these records will be maintained and made available to the public. The task force will submitting a report to the Legislature on January 1, 2022.

5. Argument in Support

The Center on Juvenile and Criminal Justice, in support of this bill, states:

It is difficult for individuals in jail or those being processed for release to contact a loved one and arrange a ride home. Jails typically do not provide access to a phone or a cell phone charger for those being released, and for those with phone access, family members or friends may be unreachable in the middle of the night. Without the ability to contact loved ones, many of those released in the middle of the night are forced to walk, wait for public transportation to begin service, or accept a ride with a stranger. In July 2018, Jessica St. Louis was released at 1:30 am from Alameda County's Santa Rita Jail, which is two miles from the nearest BART station and lacks 24-hour access to public transportation. Tragically, Ms. St. Louis died during her journey home.

6. Argument in Opposition

The California Sheriffs' Association opposes this bill stating:

While county jails are responsible for the care of inmates while in physical custody, the reach and responsibility of public entities can only extend so far. Additionally, existing law permits the sheriff to offer a voluntary program to inmates that would allow them to stay in the custody facility for up to 16 additional hours or until normal business hours, whichever is shorter, in order to offer inmates the ability to be discharged to a treatment center or during daytime hours. Current law further permits a participating inmate to revoke his or her consent to stay longer and be discharged as soon as possible and practicable.

Conversely, SB 42 requires the sheriff to allow the person to stay in jail or offer a safe place to stay if the inmate declines release during evening and early morning hours. Such a mandate creates space and cost challenges that would likely need to avoid keeping this population away from persons not free to leave. Further, if the person does not feel safe enough to leave the facility but declines the option to stay, SB 42 requires the sheriff to provide free transportation to a location of the person's choosing within the county or within a 100-mile radius, whichever is further. For geographically large counties, small or rural counties with staffing limitations, and counties that release a significant number of inmates on a daily basis, this unfunded mandate will cripple the provision of other services and turn peace officers and sheriffs' staff into drivers who will spend their days traversing the county at the whim of recently released inmates.

Several of the bill's mandates also create massive liability for county governments. By requiring transportation to any location of the inmate's choosing, public staff could be forced to unwittingly deliver an at-risk inmate to their drug dealer's location, for example. Providing a released inmate three days' supply of any necessary medication creates risk to the released person and others since there is no limitation on the type of medication that must be given to the person (e.g. narcotics, opiate replacements, anti-psychotics) and no ability to supervise appropriate use thereof.

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