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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

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**Bill No:** SB 512                      **Hearing Date:** April 28, 2015  
**Author:** Hill  
**Version:** April 6, 2015  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** MK

**Subject:** *Criminal History Information: Health Services Personnel*

### HISTORY

Source: San Mateo County

Prior Legislation: AB 1969 (Perea) Chapter 730, Stats. 2014  
AB 1511 (Gaines) Chapter 449, Stats 2014  
AB 1136 (Huff) Chapter 222, Stats. 2014

Support: Unknown

Opposition: California Public Defenders Association

### PURPOSE

*The purpose of this bill is to authorize city, county or city and county health services personnel to receive the criminal history information of individuals for the purpose of providing assessment, treatment, rehabilitation or other health care to those individuals for alcohol abuse, substance abuse, or mental health issues.*

*Existing law* requires the Department of Justice (DOJ) to maintain state summary criminal history information. (Penal Code § 11105(a).)

*Existing law* authorizes DOJ to furnish state summary criminal history information to the following specified entities:

- the courts of California;
- peace officers, as defined;
- district attorneys of California;
- prosecuting city attorneys;
- city attorneys pursuing civil gang injunctions or drug abatement actions;
- probation officers of California;
- parole officers of California;
- a public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon;

- a public defender or attorney of record when representing a person in a criminal case, or a parole, mandatory supervision, or postrelease community supervision revocation or revocation extension proceeding, and if authorized access by statutory or decisional law;
- any agency, officer, or official of the state if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct;
- any city or county, city and county, district, or any officer or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct;
- the subject of the state summary criminal history information;
- any person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct;
- Health officers of a city, county, city and county, or district when in the performance of their official duties preventing the spread of communicable diseases;
- any managing or supervising correctional officer of a county jail or other county correctional facility;
- any humane society, or society for the prevention of cruelty to animals for the appointment of humane officers;
- local child support agencies;
- county child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information for the specified purposes;
- the court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state as specified;
- child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state as specified;
- an officer providing conservatorship investigations;
- a person authorized to conduct a guardianship investigation; and,
- a humane officer for the purposes of performing his or her duties. (Penal Code § 11105 (b).)

*Existing law* states that DOJ may furnish state summary criminal history information, when specifically authorized, and federal-level criminal history information upon a showing of compelling need to any of the specified agencies, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, the employer must follow restrictions listed in the Labor Code. (Penal Code § 11105(c).)

*Existing law* states, notwithstanding any other law, a human resource agency or an employer may request from DOJ records of all convictions or any arrest pending adjudication involving the offenses specified of a person who applies for a license, employment, or volunteer position, in which he or she would have supervisory or disciplinary power over a minor or any person under his or her care. Requires DOJ to furnish the information to the requesting employer and also send a copy of the information to the applicant. (Penal Code § 11105.3(a).)

*Existing law* authorizes any local criminal justice agency as defined to compile local summary criminal history information and requires the local criminal justice agency to furnish this information to any of the specified entities. (Penal Code § 13300.)

*This bill* will add a city, county or city and county health services personnel who are engaged in efforts to identify and treat individuals who have alcohol abuse, substance abuse, or mental health issues, for the purpose of providing assessment, treatment rehabilitation or other health care to those individuals to those who can receive local summary criminal history information.

### RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight 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 February of this year the administration reported that as "of February 11, 2015, 112,993 inmates were housed in the State's 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity." (Defendants' February 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).

While significant gains have been made in reducing the prison population, the state now 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 Bill

According to the author:

As in most counties, each year in San Mateo County, thousands of people become involved with the criminal justice system. Many of these people are “frequent flyers,” having regular contact with the system due to alcohol use, substance abuse, and/or mental health related issues. A parallel phenomenon exists at the San Mateo County Medical Center Emergency Room, where some people regularly use expensive emergency room services for substance abuse, mental health related issues and routine medical care. Experience suggests that the populations overlap substantially.

San Mateo County Health System personnel would like to target specific medical, substance abuse, and/or mental health services to criminal justice involved individuals with the aim of linking them to appropriate care upon discharge, with the hopes of achieving better outcomes. Targeted interventions could include steering frequent emergency room users into ambulatory care services, specialized medication protocols such as Vivitrol for chronic alcoholics, full service partnerships for the severely mentally ill, and more informed service referrals.

However, under existing law, county health services personnel cannot access local summary criminal justice information for purposes of program planning and identifying those who may benefit from enhanced services.

### 2. Access to Summary History Information

Existing law sets forth who is authorized to receive criminal history information compiled by the DOJ or by local agencies. This bill would add city, county and city and county health services personnel who are engaged in efforts to identify and treat individuals who have alcohol abuse, substance abuse, or mental health issues for the purposes of providing assessment, treatment rehabilitation or other health care to those individuals who can receive criminal history information.

According to the author:

As in most counties, each year in San Mateo County thousands of people become involved with the criminal justice system. Many of these people also have regular contact with the health system due to alcohol use, substance abuse, and/or mental health related problems. The San Mateo County Medical Center Emergency Room has witnessed some individuals regularly accessing expensive emergency room services for substance abuse and/or mental health related problems and routine medical care. Experience suggests that the populations overlap substantially and that earlier intervention strategies could be targeted to reduce both criminal justice system and emergency department involvement and improve health outcomes.

Thus, this bill would allow city, county and city and county health systems to access criminal history information to allow:

County health systems to plan better for the types of health/behavioral services that would be most effective in serving the local jail population once they are released into the community. To do that, the health staff would be assisted by knowing where they are already serving the population and where they are not. It will also provide information on what portion of the justice-involved population accessing services is part of the County's Health Plan.

Specifically:

In San Mateo County [the sponsor], health personnel could use the local justice data inquiry for a variety of reasons to fully understand a clients' background, and provide individualized care. Health staff will need to know why a person is getting arrested, drunk in public, drugs, domestic violence related to alcoholism and the number of occasions this has occurred. The law enforcement information will serve to better inform the treatment that an individual may engage in.

Is it appropriate for city, county and city and county health officials to access criminal justice information to help with the treatment of individuals?

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