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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

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**Bill No:** SB 867                      **Hearing Date:** April 5, 2016  
**Author:** Roth  
**Version:** January 11, 2016  
**Urgency:** No                                      **Fiscal:** No  
**Consultant:** MK

**Subject:** *Emergency Medical Services*

## HISTORY

**Source:** The California Chapter of the American College of Emergency Physicians

**Prior Legislation:** SB 191 (Padilla) – Chapter 600, Stats. 2013  
AB 1475 (Solorio) – Chapter 537, Stats. 2009  
SB 1236 (Padilla) – Chapter 60, Stats. 2008  
SB 1773 (Alarcon) – Chapter 841, Stats. 2006  
SB 57 (Alarcon) – Vetoed 2005  
SB 635 (Dunn) – Chapter 524, Stats. 2004  
SB 807 (Dunn) – Vetoed 2002  
AB 1398 (Florez) not heard Senate Public Safety, 2002  
AB 1685 (Thomson) failed Senate Public Safety, 8-6-02  
SB 1489 (Perata) to the Governor, 2002  
SB 776 (Torlakson) – Chapter 857, Stats. 2001 (increase in DUI fines removed in Senate Public Safety)  
AB 2592 (Maddox) failed Senate Public Safety, 6-4-02  
AB 2288 (Aguiar) – Chapter 884, Stats. 1996  
SB 833 (Kopp) – Chapter 922, Stats. 1995  
SB 1738 (Leonard) – Chapter 1221, Stats. 1994  
AB 5 – Chapter 3, Stats. 1959

**Support:** American Academy of Pediatrics; California Hospital Association; California Children's Hospital Association; California Fire Chiefs Association; California School Nurses Organization; California State Association of Counties; Emergency Medical Services Administrators Association; Emergency Nurses Association; Fire Districts Association of California; Los Angeles County Board of Supervisors; The Osteopathic Physicians and Surgeons; Private Essential Access Community Hospitals; Providence Health and Services; Rural County Representatives of California; San Diego County

**Opposition:** None known

## PURPOSE

*The purpose of this bill is to delete the sunset date on the Maddy Emergency Medical Services Fund.*

*Existing law* provides that for the purpose of supporting emergency medical services, a county board of supervisors may elect to levy an additional penalty of \$2 on every \$10, or fraction thereof, upon every fine, penalty or forfeiture imposed and collected by the courts for criminal offenses including Vehicle Code offenses, violations of the Alcoholic Beverage Control Act and local ordinances but not including parking violations. (Government Code § 76000.5.)

*Existing law* provides the assessment sunsets on January 1, 2017. (Government Code § 7600.5.)

*This bill* deletes that sunset.

*Existing law* authorizes a county to establish a Maddy Emergency Medical Services Fund (EMS Fund) to be used to reimburse physicians and hospitals for patients who do not make payment for emergency medical services and for other emergency medical services purposes as determined by each county. Existing law requires each county establishing the fund to report to the Legislature annually on the implementation and status of the fund. (Health and Safety Code § 1797.98a et seq.; Government Code § 76104.)

*Existing law*, as part of the Maddy Emergency Medical Services Fund, provides that of the money deposited into the EMS Fund pursuant to this section, 15% shall be utilized to provide funding for pediatric trauma centers. (Health and Safety Code § 1797.98a(e).)

Existing law further provides that expenditure of money deposited in a Maddy Fund pursuant to Government Code Section 7600.5 shall be limited to reimbursement to physicians and surgeons, and hospitals for patients who do not make payment for services, or to hospitals for expanding the services provided at pediatric trauma centers, including the purchase of equipment. (Health and Safety Code § 1797.98a(e).)

Existing law provides that counties that do not maintain a pediatric trauma center shall utilize the money deposited under Government Code Section 7600.5 to improve access to pediatric trauma emergency services in the county with a preference for funding given to hospitals that specialize in services to children, and physicians and surgeons who provide care for children. (Health and Safety Code § 1797.98a(e).)

Existing law has a sunset of January 1, 2017, for the provisions regarding the use of money deposited pursuant to Government Code section 7600.5.

*This bill* removes the sunset.

## 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 Bill

The Maddy Fund will sunset on January 1, 2017 if nothing is done to eliminate or extend this date. The Maddy Fund is used to reimburse physicians and hospitals for

treating uninsured patients, and is the only source of funding for physicians treating uninsured patients. Allowing this program to sunset would result in the loss of approximately \$50 million from the emergency care safety net at a time when drastically more funding is needed, not less. SB 867 removes the sunset date to the Maddy Fund. Making the Maddy Fund permanent will allow counties, hospitals, and physicians to continue providing emergency services in their communities with these desperately needed funds. Specifically, under the Maddy Fund, counties can opt to collect an additional \$2 for every \$10 penalty for all criminal offenses and moving violations. Most counties in the state have opted to take advantage of this funding source to help their community hospitals treat the uninsured patients they see. The Maddy Fund also allocates 15% of the funds collected to support pediatric trauma centers. Without this bill, there will be no statewide funding source for pediatric trauma after the sunset date of January 1, 2017. California's Emergency Departments (EDs) are the healthcare safety net and the front lines of any public health emergency. The demand on EDs is only increasing. Despite the implementation of the Affordable Care Act (ACA), visits to the ED are up, and millions of Californians remain uninsured. SB 867 is critical to maintaining access to quality emergency care for all Californians.

## 2. Existing Penalty Assessments

Until budget year 2002-2003, there was 170% in penalty assessments applied to every fine. Current penalty assessments are approximately 310% plus \$79 in additional flat assessments. In addition to the \$2 for every \$10 that will be continued by this bill, the existing penalty assessments are:

- Existing law provides for an additional "state penalty" of \$10 for every \$10 or fraction thereof, upon every fine, penalty or forfeiture imposed and collected by the courts for criminal offenses including all offenses, except parking offenses, involving the Vehicle Code. Of the money collected, 70 percent is transmitted to the state and 30 percent remains with the county. The state portion of the money collected from the penalty is distributed in specified percentages among: the Fish and Game Preservation Fund (0.33 percent); the Restitution Fund (32.02 percent); the Peace Officers Training Fund (23.99 percent); the Driver Training Penalty Assessment Fund (25.70 percent); the Corrections Training Fund (7.88 percent); the Local Public Prosecutors and Public Defenders Fund (0.78 percent, not to exceed \$850,000 per year); the Victim-Witness Assistance Fund (8.64 percent); and the Traumatic Brain Injury Fund (0.66 percent). (Penal Code § 1464.)

Existing law provides for an additional county penalty assessment of \$7 for every \$10 or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code except parking offenses. The money collected shall be placed in any of the following funds if established by a County Board of Supervisors: Courthouse Construction Fund; a Criminal Justice Facilities Construction Fund;

- Automated Fingerprint Identification Fund; Emergency Medical Services Fund; DNA Identification Fund. (Government Code § 76000 *et seq.*)
- Existing law, as a part of the 2002-03 Budget Act, the Legislature imposed what was to be a temporary state surcharge of 20 percent on every base fine collected by the court. All money collected shall be deposited in the General Fund. This section was made permanent in the 2007 Budget. (Penal Code § 1465.7.)
- Existing law established the “State Court Facilities Construction Fund” and added a state court construction penalty assessment in an amount up to \$5 for every \$10 or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses. The variation in the amount is dependent on the amount collected by the county for deposit into the local Courthouse Construction Fund established pursuant to Government Code Section 76100. As a result, the penalty assessment ranges from \$0.00 for every \$10 in two counties, to the full \$5 for every \$10 in nine counties. This provision took effect on January 1, 2003. (Government Code § 70372.)
- Existing law, established by Prop 69, Nov. 2004, levies a \$1 penalty assessment on every \$10 in fines and forfeitures resulting from criminal and traffic offenses and dedicates these revenues to state and local governments for DNA databank implementation purposes - the state will receive 70% of these funds in the first two years, 50% in the third year and 25% annually thereafter. The remainder will go to local governments. (Government Code § 76104.6)
- Existing law provides that in addition to the amount in Government Code Section 76104.6, there shall be an additional state-only penalty of \$4 for every \$10 on every fine penalty or forfeiture imposed by the courts for all criminal offenses, including all offences involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. (Government Code 76104.7.)
- Existing law provides for an additional \$4 on every Vehicle Code violation or local ordinance for the Emergency Medical Air Transportation Act Fund. (Government Code § 76000.10)
- Existing law provides for a flat fee of \$40 on every conviction for a criminal offense to ensure adequate funding for court security. (Penal Code § 1465.8.)
- Existing law imposes a \$35 court facilities assessment on every conviction for a criminal offense including a traffic offense, excluding parking offenses, and on any local ordinance adopted pursuant to the Vehicle Code. (Government Code § 70373.)

### 3. The Maddy EMS Fund

The Emergency Medical Services fund was created (SB 12 (Maddy) 1987) to provide supplemental financing for local emergency services. The law permits, but does not require, each county to levy a \$2 penalty assessment to each \$10 of traffic fines, with the sums raised to

be deposited in the EMS fund. Ten percent of the total revenue is annually deducted for administration; and the remaining EMS revenues are divided 58% to physicians for uncompensated ER costs, 25% to trauma centers and hospitals, and 17% for county emergency medical services.

SB 623 (Speier) Chapter 679, Statutes of 1999, additionally requires that in those counties that have established a Maddy Fund, an amount equal to a specified sum is to be deposited by the county treasurer in the Maddy Fund.

#### **4. Additional 20% Assessment**

Existing law, which sunsets on January 1, 2017, provides that a county board of supervisors may elect to levy an additional penalty of \$2 for every \$10 on every fine, penalty, forfeiture for criminal offenses including those relating to the Alcoholic Beverage Control Act and all offenses dealing with the Vehicle Code except parking offenses. The additional assessment for “the purposes of supporting emergency medical services” is in addition to the existing 20% penalty assessment for these purposes.

Money collected under the statute to be continued under this bill shall be deposited with the County Treasurer. Of the money deposited into the EMS fund under this statute, 15% shall be utilized to provide funding for pediatric trauma centers, although in another section of the bill it refers to trauma care facilities providing trauma care. The statute provides that expenditures shall be limited to reimbursement to physicians, and surgeons, and hospitals for patients who do not make payment for services, or for expanding the services provided at pediatric trauma centers, including the purchase of equipment. Counties that do not maintain a pediatric trauma center shall utilize the money deposited pursuant to this provision to improve access to pediatric trauma centers with a preference for funding given to hospitals that specialize in services to children, and physicians and surgeons who provide care to children.

In past bills the sunset has been extended not eliminate. The Committee may wish to consider whether an extension of the sunset is more appropriate than the elimination of the sunset.

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