
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 1013 **Hearing Date:** April 19, 2016
Author: Beall
Version: April 7, 2016
Urgency: No **Fiscal:** Yes
Consultant: JM

Subject: *Mentally Ill Parolees: Housing*

HISTORY

Source: Coalition for Supportive Housing

Prior Legislation: SB 1021 (Comm. on Budget) – Ch. 41, Stats. 2012

Support: California Attorneys for Criminal Justice; California Catholic Conference; Disability Rights California; County Behavioral Health Directors

Opposition: None known

PURPOSE

The purpose of this bill is to require service providers in the Integrated Services for Mentally Ill Parolees (ISMIP) program to provide parolee participants with adequate housing and related assistance, including a path to permanent housing and independent living, as part of the Supportive Housing Program for Mentally Ill Prisoners.

Existing law authorizes California Department of Corrections and Rehabilitation (CDCR) to obtain day treatment, and contract for crisis care for parolees with mental health problems. “Day treatment and crisis care services should be designed to reduce parolee recidivism.” CDCR shall work with counties to extend mental health services to former parolees who need such services. (Pen. Code § 3073.)

Existing law defines a “serious mental disorder” as a “disorder that is severe in degree and persistent in duration, which may cause behavioral functioning which interferes substantially with the primary activities of daily living, and which may result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time. Serious mental disorders include, but are not limited to, schizophrenia, bipolar disorder, post-traumatic stress disorder, as well as major affective disorders or other severely disabling mental disorders. (Welf. & Inst. Code § 5600.3, subd. (b).)

Existing law provides that in the Integrated Supportive Housing Program for Mentally Ill Parolees CDCR shall, with designated funds, provide supportive housing services for parolees with serious mental parolee disorders who are at risk of becoming homeless. (Pen. Code § 2985-2985.5.)

Existing law provides that an eligible inmate or parolee shall have a serious mental disorder, as defined, and a history of mental health treatment in the prison system. He or she must either be a homeless parolee or an inmate pending release who is likely to be homeless upon release and voluntarily participate. (Pen. Code § 2985.2, subd. (b).)

Existing law requires a service provider offer services for parolees to maintain health and housing stability and comply with parole conditions; and providers shall augment services to other parolees. Services for parolees must include:

- Case management;
- Parole discharge planning;
- Housing location and, if necessary, move-in cost assistance;
- Rental subsidies;
- Linkage to vocational education and employment services;
- Transportation assistance to obtain services and healthcare;
- Assistance in obtaining identification; and
- Assistance in entitlement applications and appeals (Pen. Code § 2985.3)

Existing law requires that for eligible inmates pending release, the provider shall collaborate with a participant's parole agent and case manager or intake coordinator, as specified, to do the following:

- Receive prelease assessments and discharge plan.
- Draft plan for housing to meet the parolee's needs and resources, including support services and path to permanent housing.
- Engage the parolee to actively participate in services.
Assist him or her to obtain identification and benefits. (Pen. Code § 2985.3, subd. (b).)

Existing law requires the service provider to do the following to facilitate the parolees transition into the community to do the following:

- At least quarterly, assess a participant's needs and include in the assessment a plan for permanent housing after parole.
- Transition participants from CDCR rental assistance into mainstream rental assistance, such as specified federal programs, if necessary for the parolee to remain in stable housing.
- Include in the parole discharge plan the need for linkage to county mental health services and housing services supported by specified legislation and other funding sources for permanent housing for permanent housing for the mentally ill. (Pen. Code § 2985.3, subd. (c).)

Existing law requires providers to identify and locate supportive housing and transitional housing for participants before release or as soon as possible upon release. (Pen. Code § 2985.4.)

Existing law requires providers to report to CDCR as follows:

- Number of participants served and types of services provided.

- Outcomes, including those who graduated to independent living, remain in permanent housing left the program and returned to prison. (Pen. Code § 2985.5, subd. (a).)

Existing law directs CDCR to analyze costs in comparison to savings in reduced recidivism from the supportive housing program, excluding federal funds. CDCR shall report this material annually. (Pen. Code § 2985.5, subd. (c).)

This bill includes the following statements of legislative intent:

- Strengthen the ISMIP program to ensure that CDCR promotes evidence-based wraparound services, including adequate rental subsidies for mentally ill parolees to obtain and keep stable housing, thereby decreasing recidivism.
- Provide that CDCR contracts in the ISMIP program require providers to target resources to parolees who are homeless or at risk of becoming homeless. Contracts shall emphasize housing needs over other services, including day center services. Providers shall use a substantial proportion of contract funds for housing support and services.

This bill would require a service provider in the program for mentally ill parolees to demonstrate an existing relationship with a supportive housing provider.

This bill would specify that a parolee participant is not required to receive other services as a condition of eligibility to receive rental assistance through the program.

This bill would require a service provider to offer rental subsidies that are equal to or greater than fair market rent, as defined.

This bill would also prohibit the department or a service provider from limiting the duration that a program participant may receive rental assistance through the program, except by the length of the person's parole.

This bill would require a service provider to identify and locate supportive housing opportunities no later than 9 months after the program participant has agreed to participate in the program. The bill would require that the housing located provide the program participant with a lease where he or she has all of the rights and responsibilities of tenancy.

This bill would require a service provider to use a portion of the program payments received to provide interim housing, as defined.

This bill would also require a service provider to report to the department the percentage of program participants currently living in permanent housing and the number who are arrested and residing in county jail.

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

Established in the 2009-10 budget, ISMIP was intended to support holistic, intensive case management—including food, clothing, shelter, and treatment—for a population that faces high risk of recidivism. Mentally ill parolees often

struggle to manage their conditions and meet the terms of their parole when they lack stable housing and easy access to services. One of the goals stated in the language authorizing ISMIP was to fund housing for these parolees, and to support the integration of services with housing when possible.

In spite of these goals, only eight percent of ISMIP program funds are currently being spent on housing program participants. That relatively low proportion indicates that providers are either not prioritizing this need or not targeting homeless parolees specifically.

CDCR's implementation of ISMIP thus far has focused more on funding day treatment. Day treatment provides services at a center that parolees must travel to visit, which increases the difficulty of accessing necessary services for people whose mental illness and limited resources may preclude them from easily using public transportation. These services can also be expensive – perhaps as much as \$10,000 per person per year more than similar treatment and service provision programs implemented under Proposition 63. Additionally, providers may be using ISMIP funds to pay for services that are now eligible for federal reimbursement.

SB 1013 clarifies in statute that ISMIP should continue to provide the full suite of necessary services to mentally ill parolees, including housing services; leverage other fund sources for services when possible; and utilize evidence-based approaches to treatment.

2. Mental Illness among California Prisoners and Parolees – Research on the Importance of Stable Housing

A 2007 article in the *Journal of Contemporary Health Law and Policy*¹ detailed the pervasive and difficult issues concerning mentally ill inmates and parolees in California. Since the article was published, the California Prison Healthcare Correctional Healthcare Services has overseen the expenditure of hundreds of millions of dollars to comply with federal court orders to reform the prison healthcare system, including serious problems with mental health treatment.

Thousands of people with mental illness are currently serving terms in California prisons. These individuals receive inadequate medical and psychiatric care, serve longer terms than the average inmate, and are released without adequate preparation and support for their return to society. As a result, mentally ill offenders are more likely than general-population offenders to violate parole and return to prison.

The article recommended wraparound services for mentally ill parolees upon release from prison. The ISMIP and this bill appear to implement or require these recommendations:

If intake diagnoses prisoners' mental illnesses and the prison sentence treats them, release should prepare prisoners to treat their condition outside prison and, one hopes, avoid further incarceration. Recidivism can be reduced if re-entry is planned, if intervention is frontloaded, and if parole officers embrace the harm

¹ <http://scholarship.law.edu/cgi/viewcontent.cgi?article=1106&context=jchlp>

reduction principle (a public-health-oriented rather than criminal-justice-oriented approach to dealing with parole infractions). Investments in release programs should ultimately generate a virtuous cycle; when prisoner recidivism decreases, more resources are freed for treatment within the prison system and within non-penal mental health institutions.

The most effective post-release programs follow the integrated services model, concentrating on the period immediately following release and coordinating multiple services such as mental health, parole, therapeutic treatment for drug and alcohol addiction, housing, and employment." For example, prisoners about to be released should have an adequate supply of medication (at least seventy-two hours' worth), some form of housing, and contacts with a coordinated team of correctional and social services staff.

Such efforts will aid the recently-released prisoners as they enter parole, seek permanent housing, pursue job training and employment, enroll in drug and alcohol abuse counseling, and receive restored government benefits such as Temporary Aid to Needy Families, Medi-Cal, Medicaid, Social Security, and State and Social Security Disability Insurance

The article then specifically addressed positive outcomes that resulted from providing the mentally ill, including former inmates, with stable housing. The article described the programs implemented through AB 2034 (Steinberg) Ch. 518 Stats. 2000. That bill continued an earlier pilot project to provide grants to counties and cities for mental health treatment of the homeless and those at risk of becoming homeless or incarcerated. Stable housing was shown to substantially reduce recidivism:

Over three years, participants in AB 2034 pilot programs reduced days spent in incarceration by 72.1% and the number of incarcerations by 45.9%.¹⁸⁷ Participants' ability to secure housing was a foundation for successful treatment. What has become apparent to most providers and stakeholders is the therapeutic significance of having a stable place to live, and the foundation this provides for individuals' ability and desire to make progress in other aspects of their lives. (Internal quotation marks and citations have been omitted in the material quoted from the article.)

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