
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 2217 **Hearing Date:** June 23, 2026
Author: Zbur
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Urgency: No **Fiscal:** Yes
Consultant: NDT

Subject: *Criminal procedure: alternatives to arrest*

HISTORY

Source: Californians for Safety and Justice; Drug Policy Alliance

Prior Legislation: AB 2215 (Bryan), Ch. 954, Stats. of 2024
SB 843 (Committee on Budget and Fiscal Review), Ch. 33, Stats. of 2016

Support: A New Path; Alliance for Boys and Men of Color; California Community Foundation; California Public Defenders Association; Communities United for Restorative Youth Justice; Community Health Project LA; Courage California; Disability Rights California; Ella Baker Center for Human Rights; Fair and Just Prosecution; Felony Murder Elimination Project; Glide; Healthright 360; Law Enforcement Action Partnership; Local 148 Los Angeles County Public Defender's Union; Rubicon Programs; San Francisco Aids Foundation; San Francisco Public Defender; San Quentin Skunkworks; Smart Justice California, a Project of Beyond Impact; The Sidewalk Project; Transitions Clinic Network; Vera Institute of Justice

Opposition: None known

Assembly Floor Vote: 63 - 1

PURPOSE

The purpose of this bill is to establish the Alternatives to Arrest pilot program, as the successor to the Law Enforcement Assisted Diversion pilot program, to expand the ability of law enforcement to make social contact referrals, and expand the list of offenses that are eligible for law enforcement prebooking diversion or social contact referrals.

Existing law establishes the Law Enforcement Assisted Diversion (LEAD) pilot program for the purpose of improving public safety and reducing recidivism by increasing the availability and use of social service resources while reducing costs to law enforcement agencies and courts stemming from repeated incarceration. (Pen. Code, § 1001.85, subd. (a).)

Existing law requires LEAD pilot programs to be consistent with specified principles. (Pen. Code, § 1001.85, subd. (b).)

Existing law requires the LEAD program to be administered by the California Board of State and Community Corrections (BSCC). (Pen. Code, § 1001.86, subd. (a).)

Existing law requires the BSCC to award grants, on a competitive basis, to up to three jurisdictions, as specified, and requires the BSCC to establish minimum standards, funding schedules, and procedures for awarding grants, which shall take into consideration the following:

- Information from the applicant demonstrating a clear understanding of the program's purpose and the applicant's willingness and ability to implement the LEAD program.
- Key local partners who would be committed to, and involved in, the development and successful implementation of a LEAD program, as specified.
- The jurisdiction's capacity and commitment to coordinate social services, law enforcement efforts, and justice system decision-making processes, and to work to ensure that the discretionary decisions made by each participant in the administration of the program operate in a manner consistent with the purposes of LEAD. (Pen. Code, § 1001.86, subd. (b).)

Existing law requires successful grant applicants to collect and maintain data pertaining to the effectiveness of the program as indicated by the BSCC in the request for proposals. (Pen. Code, § 1001.86, subd. (c).)

Existing law requires a funded LEAD program to consist of a strategy of effective intervention for eligible participants consistent with the following gateways to services:

- Prebooking referral. (Pen. Code, § 1001.87, subd. (a)(1).)
 - *Existing law* authorizes, as an alternative to arrest, an officer to take or refer a person for whom the officer has probable cause for arrest for any of the offenses described below to a case manager to be screened for immediate crisis services and to schedule a complete assessment intake interview.
 - *Existing law* specifies that participation in LEAD shall be voluntary, and the person may decline to participate in the program at any time.
 - *Existing law* prohibits criminal charges based on the conduct for which a person is diverted to LEAD from being filed, provided that the person finishes the complete assessment intake interview within a period set by the local jurisdictional partners, but not to exceed 30 days after the referral.
- Social contact referral. (Pen. Code, § 1001.87, subd. (a)(2).)
 - *Existing law* authorizes an officer to refer an individual to LEAD whom they believe is at high risk of arrest in the future for any of the crimes specified below, provided that the individual meets the criteria specified above and expresses interest in voluntarily participating in the program.
 - *Existing law* authorizes LEAD to accept these referrals if the program has capacity after responding to prebooking diversion referrals, and requires social contact referrals to LEAD to meet the following criteria:
 - Law enforcement verifies that the individual has had prior involvement with low-level drug activity or prostitution, which shall consist of any of the following: (Pen. Code, § 1001.87, subd. (a)(2)(A).)
 - Criminal history records, including, but not limited to, prior police reports, arrests, jail bookings, criminal charges, or convictions

indicating that he or she was engaged in low-level drug or prostitution activity. (Pen. Code, § 1001.87, subd. (a)(2)(A)(i).)

- Law enforcement has directly observed the individual's low-level drug or prostitution activity on prior occasions. (Pen. Code, § 1001.87, subd. (a)(2)(A)(ii).)
- Law enforcement has a reliable basis of information to believe that the individual is engaged in low-level drug or prostitution activity, including, but not limited to, information provided by another first responder, a professional, or a credible community member. (Pen. Code, § 1001.87, subd. (a)(2)(A)(iii).)
 - The individual's prior involvement occurred within the LEAD pilot program area. (Pen. Code, § 1001.87, subd. (a)(2)(B).)
 - The individual's prior involvement occurred within 24 months of the date of referral. (Pen. Code, § 1001.87, subd. (a)(2)(C).)
 - The individual does not have a pending case in drug court or mental health court. (Pen. Code, § 1001.87, subd. (a)(2)(D).)
 - The individual is not prohibited, by means of an existing no-contact order, temporary restraining order, or antiharassment order, from making contact with a current LEAD participant. (Pen. Code, § 1001.87, subd. (a)(2)(E).)

Existing law specifies that the following offenses are eligible for prebooking diversion or social contact referrals, or both:

- Possession for sale or transfer of a controlled substance or other prohibited substance where the circumstances indicate that the sale or transfer is intended to provide a subsistence living or to allow the person to obtain or afford drugs for their own consumption.
- Sale or transfer of a controlled substance or other prohibited substance where the circumstances indicate that the sale or transfer is intended to provide a subsistence living or to allow the person to obtain or afford drugs for his or her own consumption.
- Possession of a controlled substance or other prohibited substance.
- Being under the influence of a controlled substance or other prohibited substance.
- Being under the influence of alcohol and a controlled substance or other prohibited substance.
- Prostitution, as specified. (Pen. Code, § 1001.87, subd. (b).)

Existing law authorizes services to include, but not be limited to, case management, housing, medical care, mental health care, treatment for alcohol or substance use disorders, nutritional counseling and treatment, psychological counseling, employment, employment training and education, civil legal services, and system navigation. (Pen. Code, § 1001.88, subd. (a).)

Existing law authorizes grant funding to be used to support any of the following:

- Project management and community engagement.
- Temporary services and treatment necessary to stabilize a participant's condition, including necessary housing.
- Outreach and direct service costs for services described in this section.
- Civil legal services for LEAD participants.

- Dedicated prosecutorial resources, including for coordinating any nondiverted criminal cases of LEAD participants.
- Dedicated law enforcement resources, including for overtime required for participation in operational meetings and training.
- Training and technical assistance from experts in the implementation of LEAD in other jurisdictions.
- Collecting and maintaining the data necessary for program evaluation. (Pen. Code, § 1001.88, subd. (a) (1)-(8).)

Existing law requires the BSCC to contract with a nonprofit research entity, university, or college to evaluate the effectiveness of the LEAD program, and requires the evaluation design to include measures to assess the cost-benefit outcomes of LEAD programs compared to booking and prosecution, and may include evaluation elements such as comparing outcomes for LEAD participants to similarly situated offenders who are arrested and booked, the number of jail bookings, total number of jail days, the prison incarceration rate, subsequent felony and misdemeanor arrests or convictions, and costs to the criminal justice and court systems, and specifies that savings will be compared to costs of LEAD participation. (Pen. Code, § 1001.88, subd. (b)(1).)

Existing law required, by January 1, 2020, a report of the findings to be submitted to the Governor and the Legislature, as specified. (Pen. Code, § 1001.88, subd. (b)(1).)

Existing law authorizes the BSCC to contract with experts in the implementation of LEAD in other jurisdictions for the purpose of providing technical assistance to participating jurisdictions. (Pen. Code, § 1001.88, subd. (c).)

Existing law specifies that \$15,000,000, is hereby appropriated from the General Fund for the LEAD pilot program, as specified, and the BSCC may spend up to \$550,000, of the amount appropriated in this subdivision for the specified contracts described above. (Pen. Code, § 1001.88, subd. (d).)

Existing law authorizes a peace officer to release from custody, instead of taking the person before a magistrate, a person arrested without a warrant, where the person was arrested and subsequently delivered or referred to a public health or social service organization that provides services including, but not limited to, housing, medical care, treatment for alcohol or substance use disorders, psychological counseling, or employment training and education, the organization agrees to accept the delivery or referral, and no further proceedings are desirable. (Pen. Code, § 849, subd. (b).)

This bill establishes the Alternatives to Arrest (ATA) pilot program as the successor to the LEAD pilot program.

This bill specifies that an ATA program principle is employing human and social service resources that prioritize addressing unmanaged mental illness and substance use, and navigating people into stable housing, as needed, in a manner that improves individual outcomes and community safety, and promotes community wellness.

This bill requires the BSCC to award a grant to the public health agency administering qualifying programs in the City of Los Angeles and the County of Los Angeles, in addition to the existing requirement to award grants, on a competitive basis, as well as other jurisdictions.

This bill requires the BSCC to take into consideration leadership by a public health or behavioral agency, as well as a jurisdiction's capacity and commitment to coordinate public health, for purposes of the requirement that BSCC take into consideration certain criteria when establishing standards, schedules, and procedures for awarding grants.

This bill expands the ability of law enforcement officers to make social contact referrals to an ATA program, as follows:

- Specifies that an officer may refer an individual to an ATA whom they believe would benefit from case management services, is at high risk of arrest in the future, and who expresses interest in voluntarily participating in the program.
- Removes the following requirements for social contact referrals to an ATA program:
 - That the officer believes an individual is at a high risk of arrest in the future for one of the crimes eligible for prebooking diversion or social contact referrals.
 - That the social contact referral to LEAD meets the following criteria:
 - Law enforcement verifies that the individual has had prior involvement with low-level drug activity or prostitution, which shall consist of any of the following:
 - Criminal history records, including, but not limited to, prior police reports, arrests, jail bookings, criminal charges, or convictions indicating that they were engaged in low-level drug or prostitution activity.
 - Law enforcement has directly observed the individual's low-level drug or prostitution activity on prior occasions.
 - Law enforcement has a reliable basis of information to believe that the individual is engaged in low-level drug or prostitution activity, as specified.
 - The individual's prior involvement occurred within the LEAD pilot program area.
 - The individual's prior involvement occurred within 24 months of the referral.
 - The individual does not have a pending case in drug court or mental health court.
 - The individual is not prohibited, by means of an existing no-contact order, temporary restraining order, or antiharassment order, from making contact with a current LEAD participant.

This bill modifies the offenses eligible for prebooking diversion, and removes the below offenses from eligibility for social contact referral:

- Specifies that the offense of possession of a controlled or prohibited substance includes possession of drug paraphernalia.
- Expands the list of eligible offenses to include:
 - Shoplifting or petty theft.
 - Misdemeanor trespass.

- Burglary in the second degree.
- Other violations identified by the local jurisdiction with agreement of the police chief or sheriff, as applicable, and the implementing public health or behavioral health agency administering case management services.
- Soliciting anyone to engage in or engaging in lewd or dissolute conduct in a public place or place open to the public, as specified.
- Accosting another person in a public place or place open to the public for the purpose of begging or soliciting alms.
- Loitering in or about a toilet open to the public for the purpose of engaging in or soliciting a lewd, lascivious, or unlawful act.
- Lodging in a building, structure, vehicle, or place, whether public or private, without the permission of the owner, as specified.
- Being found in a public place under the influence of alcohol or drugs, as specified, in a condition that they are unable to exercise care for their own safety or the safety of others, or by reason of being under the influence, interfering with, obstructing, or preventing the free use of a street, sidewalk, or other public way.
- Loitering, prowling, or wandering upon the private property of another, at any time, without visible or lawful business with the owner or occupant, as specified.
- Removes the following crimes from the list of eligible offenses:
 - Soliciting, agreeing to engage in, or engaging in, an act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person, as specified.
 - Soliciting, agreeing to engage in, or engaging in, an act of prostitution with another person who is a minor in exchange for the individual providing compensation, money, or anything of value to the minor, as specified.

This bill specifies that the authorization for grant funding to be used to support training and technical assistance from experts in the implementation of LEAD includes the implementation of similar or complementary programs, including experts from other jurisdictions.

This bill requires the BSCC, on or before September 1, 2031, to submit a report to the Legislature on the effectiveness of the ATA program, as specified.

This bill specifies that upon appropriation by the Legislature, funds appropriated for this chapter shall be granted to the entity responsible for LEAD or ATA in the Los Angeles City and County for the continuation and expansion of LEAD or ATA in those jurisdictions and to public health or behavioral health agencies in jurisdictions to be identified by the board to implement ATA.

This bill specifies that the BSCC may also spend a portion of the funds appropriated for contracts with experts on the implementation and evaluation of ATA or similar programs in other jurisdictions for the purpose of providing technical assistance to participating jurisdictions.

This bill removes the previous reporting provisions that required the BSCC to contract with specified research entities to evaluate the effectiveness of the LEAD program, as specified, required savings to be compared to costs of LEAD participation, required a report to be submitted to the Governor and Legislature by January 1, 2020, and specified that this reporting requirement is inoperative on January 1, 2024, and makes other technical and conforming changes.

This bill removes the previously enacted funding provision that allocates \$15,000,000, from the General Fund to the LEAD pilot program, and authorizes the BSCC to spend up to \$550,000, of the amount for specified contracts.

COMMENTS

1. Need for This Bill

According to the author:

Too often, poverty is criminalized and individuals who are simply seeking to provide for their basic needs are incarcerated. Incarceration does not address the root causes of crime. In fact, it often only exacerbates the underlying issues of poverty, instability, lack of access to resources, and lack of housing, that contribute to crime. AB 2217 will help connect vulnerable individuals to services, instead of incarcerating them, by expanding the Alternatives to Arrest program (formerly Law Enforcement Assisted Diversion program).

The program focuses on individuals with low-level, repeat offenses where the underlying issue is often homelessness, mental health needs, or substance use, and allows law enforcement officers to refer someone to a case manager for immediate crisis services instead of making an arrest. These referrals are voluntary; are made at the officer's discretion; and connect people to housing, health care, mental health support, and substance use treatment when appropriate. AB 2217 will expand the program to include additional offenses for which peace officers would have discretion to refer a person to crisis and case management, and will allow local jurisdictions the flexibility to add additional offenses if agreed upon by local law enforcement and public health leadership.

2. Law Enforcement Assisted Diversion

The 2016 public safety budget trailer bill created the LEAD Pilot Program, which is designed “to improve public safety and reduce recidivism by increasing the availability and use of social service resources while reducing costs to law enforcement agencies and courts stemming from repeated incarceration.” (Pen. Code, § 1001.85, subd. (a).) Authorized LEAD programs include case management, housing, medical care, mental health care, treatment for alcohol or substance use disorders, nutritional counseling and treatment, psychological counseling, employment, employment training and education, civil legal services, and system navigation. (Pen. Code, § 1001.88, subd. (a).) LEAD is administered by the BSCC to award grants, on a competitive basis, to up to three jurisdictions, as specified. (Pen. Code, § 1001.86, subds. (a) & (b).) According to the Committee on the Revision of the Penal Code (CRPC), the initial pilot program allocated 15 million in funding over two and a half years, and allocated funding to San Francisco and Los Angeles.¹ The LEAD program in San Francisco was terminated after the completion of the pilot program.²

¹ CRPC, (Dec. 2023). *2023 Annual Report and Recommendations*
https://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2023.pdf

² *Id.*

LEAD authorizes two types of law enforcement referrals. First, it authorizes, as an alternative to arrest, an officer to refer a person for whom the officer has probable cause for arrest for eligible offenses to a case manager to be screened for immediate crisis services and to schedule a complete assessment intake interview (pre-booking referrals). (Pen. Code, § 1001.87, subd. (a)(1).) Criminal charges may not be filed for the conduct for which a person is diverted to LEAD, provided that the person finishes the complete assessment intake interview within 30 days after the referral. (*Ibid.*) Second, it authorizes social contact referrals, which permit officers to refer an individual to LEAD whom they believe is at high risk of arrest in the future for eligible offenses, provided that the individual meets specified criteria and expresses interest in voluntarily participating in the program. (Pen. Code, § 1001.87, subd. (a)(2).) For law enforcement to make a social contact referral, several criteria must be met: 1) law enforcement verifies that the individual has had prior involvement with low-level drug activity or prostitution; 2) the prior involvement occurred within the LEAD pilot program area; 3) the prior involvement occurred within 24 months of the referral; 4) the individual does not have a pending case in drug or mental health court; and 5) the individual is not prohibited from making contact with a current LEAD participant. (Pen. Code, § 1001.87, subd. (a)(2)(E).) Offenses eligible for prebooking diversion or social contact referrals include specified subsistence-related possession for sale or transfer of a controlled substance, subsistence-related sale or transfer of a controlled substance, possession of a controlled substance, being under the influence of alcohol or a controlled substance, and prostitution, as specified. (Pen. Code, § 1001.87, subd. (b).)

The enacting statute required BSCC to submit a report analyzing program outcomes to the Governor and the Legislature by January 1, 2020. In 2020, researchers at California State University Long Beach, School of Criminology, submitted a report to the BSCC on the LEAD Pilot Programs launched in Los Angeles County and San Francisco.³ Although outcome and cost data from Los Angeles County were not made available in time for the report, the researchers noted that the success of the LEAD Pilot Program in San Francisco:

At the 12-month follow-up period, LEAD SF clients had significantly lower rates of misdemeanor and felony arrests, and felony cases. Felony arrests were about two and a half times higher (257%) for individuals in the comparison group. Misdemeanor arrests were over six times higher (623%) for the comparison group. And felony cases were three and a half times higher (360%) for the comparison group. Notably, the significant increase in citations for LEAD clients seen at the 6-month follow-up was not present after a year in the program. These positive findings are likely due to the harm reduction nature of LEAD. LEAD participants' case managers also coordinated with San Francisco public defenders and DAs to assist with active cases as to not compromise LEAD intervention plans.⁴

The research pointed to the San Francisco outcome and cost evaluation findings in their conclusion that “this evaluation adds to the evidence supporting LEAD as a promising alternative to the criminal justice system as usual.”⁵

³ CSU Long Beach School of Criminology, (Jan. 2020). *Law Enforcement Assisted Diversion (LEAD) External Evaluation*,) <https://www.bscc.ca.gov/wp-content/uploads/CSULB-LEAD-REPORT-TO-LEGISLATURE-1-15-2020.pdf>

⁴ *Id.* at p. 8.

⁵ *Id.* at p. 122.

In 2023, the CRPC's 2023 Annual Report noted that LEAD state funding had expired, and the pandemic played a role in slowing the development of LEAD programs.⁶ Accordingly, citing the recidivism benefits from the San Francisco and Los Angeles pilot programs, the CRPC recommended "re-establish[ing] LEAD pilot programs with the following specifications:

- Eligible offenses include those in the original LEAD pilot (drug possession, subsistence sales, and prostitution), and offenses related to theft, burglary, and trespassing.
- Allow counties to further expand the list of eligible offenses."⁷

3. Effect of This Bill

This bill seeks to implement some of the above CRPC recommendations, among other changes. Specifically, it re-establishes the LEAD pilot program, focused on Los Angeles, under a new name: Alternatives to Arrest. It requires BSCC to award a grant to the public health agency administering qualifying programs in the City and the County of Los Angeles, and states that upon appropriation, funds shall be granted to the entity responsible for LEAD in the City and the County of Los Angeles for the continuation and expansion of LEAD in those jurisdictions and to public health or behavioral health agencies in jurisdictions to be identified by the board to implement ATA. Similar to the enacting legislation, it requires BSCC to submit a report to the Legislature on the ATA program by September 1, 2031.

This bill also makes several changes to the scope and eligibility criteria of the LEAD – now ATA – program. First, it expands the ability of officers to make social contact referrals to an ATA program by authorizing an officer to refer an individual to an ATA whom they believe would benefit from case management services and is at high risk of arrest, more generally, in the future. It removes the requirement that an officer believes an individual is at a high risk of arrest in the future for only LEAD-eligible crimes. It also removes the requirements that the social contact referral meet the following criteria: 1) law enforcement verifies the individual has had prior involvement with low-level drug activity or prostitution,; 2) the prior involvement occurred within the LEAD pilot program area; 3) the prior involvement occurred within 24 months of the referral; 4) the individual does not have a pending case in drug or mental health court; and 5) the individual is not prohibited from making contact with a current LEAD participant. (Pen. Code, § 1001.87, subd. (a)(2)(E).) This expands the type of individuals that may receive social contact referrals, while maintaining law enforcement discretion to make said referrals.

Second, consistent with the CRPC 2023 Annual Report and Recommendation, this bill generally expands the list of offenses that are eligible for prebooking diversion or social contact referrals. Specifically, it expands eligible offenses to include shoplifting or petty theft, misdemeanor trespass, burglary in the second degree, specified disorderly conduct offenses, as well as other violations identified by the local jurisdiction with agreement of the police chief or sheriff, as applicable, and the implementing public health or behavioral health agency administering case management services. It also narrows the type of prostitution-related offenses that are eligible for prebooking diversion or social contact referrals.

⁶ CRPC, *supra*, at p. 14.

⁷ *Id.* at p. 13.

4. Argument in Support

According to Drug Policy Alliance, one of the bill's co-sponsors:

AB 2217 builds on chaptered legislation in AB 2215 (Bryan, 2024) and SB 843 (Budget, 2016) and includes the recommendation of the Commission for the Revision of the Penal Code to add additional offenses for which peace officers would have discretion to refer a person to crisis and case management prior to filing of a court case. The bill would also allow local jurisdictions the flexibility to add additional offenses with concurrence of local law enforcement and public health leadership. Additionally, the bill would allow the use of grant funds to include the planning and development of Alternatives to Arrest programs in additional jurisdictions throughout the state.

Piloted and funded in the 2016-17 budget, and based on national best practices, Law Enforcement Assisted Diversion (LEAD) focuses on providing a community-based alternative for people who may be at risk of arrest and prosecution as a result of unmet needs related to substance use, mental health challenges, or poverty.

Under the LEAD model, renamed in this bill as Alternatives to Arrest (ATA), a law enforcement officer in a participating jurisdiction may refer or transport a person, whom the officer has probable cause to arrest for specified offenses, to a case manager to be screened for immediate crisis services and to schedule a complete assessment interview. Referrals can also be made for individuals known to be at high risk of arrest. Case managers may assist the person on a long term, voluntary basis with service needs, including any available supportive housing options, health care, mental health support, and substance use disorder treatment services. Participation in case management services is voluntary, and potential charges are held in abeyance if the person completes an intake assessment.

Successful LEAD models encourage collaboration among diverse community stakeholders, including law enforcement, public health agencies, community-based service providers, and others to align resources toward an effective, non-punitive system of response and care.

The 2016 budget legislation mandated an independent evaluation of the pilot programs. The California State University-Long Beach (CSULB) School of Criminology evaluation found that 12 months after LEAD implementation, similarly situated persons in Los Angeles who were not referred to LEAD had felony arrest rates 537% higher than LEAD participants, and misdemeanor arrest rates that were 153% higher. The 12-month follow up comparison in San Francisco found that arrest rates for felonies were 257% higher for non-LEAD participants, and misdemeanor arrest rates were 623% higher. This finding is supported by recent data from the Los Angeles County Department of Health Services which confirms a low level of recidivism and high retention rate in their LEAD program participants.