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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair  
2019 - 2020 Regular

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**Bill No:** AB 1688                      **Hearing Date:** July 9, 2019  
**Author:** Calderon  
**Version:** June 20, 2019  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** SJ

**Subject:** *Rehabilitation Programs: Recidivism*

## HISTORY

Source: Author

Prior Legislation: AB 900 (Solorio), Ch. 7, Stats. 2007

Support: Unknown

Opposition: None known

Assembly Floor Vote: 78 - 0

## PURPOSE

*The purpose of this bill is to require the Department of Corrections and Rehabilitation (CDCR) to partner with an external researcher to evaluate the effectiveness of its rehabilitation programs, and to report on the recidivism analysis, various data points, and its corrective action plan, as specified.*

*Existing law* requires CDCR to develop and implement a plan to obtain additional rehabilitation and treatment services for prison inmates and parolees and requires the plan to include, but is not limited to, all of the following:

- Plans to fill vacant state staff positions that provide direct and indirect rehabilitation and treatment services to inmates and parolees.
- Plans to fill vacant staff positions that provide custody and supervision services for inmates and parolees.
- Plans to obtain from local governments and contractors services for parolees needing treatment while in the community and services that can be brought to inmates within prisons.
- Plans to enter into agreements with community colleges to accelerate training and education of rehabilitation and treatment personnel, and modifications to the licensing and certification requirements of state licensing agencies that can accelerate the availability and hiring of rehabilitation and treatment personnel. (Pen. Code, § 2062.)

*Existing law* requires CDCR to provide to the Joint Legislative Budget Committee by January 10 of each year, operational and fiscal information to be displayed in the Governor's proposed

budget. Requires this information to include data for the three most recently ended fiscal years, including, but is not limited to:

- Per capita costs, average daily population, and offender to staff ratios for each of the following:
  - Adult inmates housed in state prisons;
  - Adult inmates housed in Community Correctional Facilities and out-of-state facilities;
  - Adult parolees supervised in the community;
  - Juvenile wards housed in state facilities; and,
  - Juvenile parolees supervised in the community.
- Total expenditures and average daily population for each adult and juvenile institution.
- Number of established positions and percent of those positions vacant on June 30 for each of the following classifications within the department:
  - Correctional officer;
  - Correctional sergeant;
  - Correctional lieutenant;
  - Parole agent;
  - Youth correctional counselor;
  - Youth correctional officer;
  - Physician;
  - Registered nurse;
  - Psychiatrist;
  - Psychologist;
  - Dentist;
  - Teacher;
  - Vocational instructor; and,
  - Licensed vocational nurse.
- Average population of juvenile wards classified by board category;
- Average population of adult inmates classified by security level;
- Average population of adult parolees classified by supervision level;
- Number of new admissions from courts, parole violators with new terms, and parole violators returned to custody;
- Number of probable cause hearings, revocation hearings, and parole suitability hearings conducted;
- For both adult and juvenile facilities, the number of budgeted slots, actual enrollment, and average daily attendance for institutional academic and vocational education and substance abuse programs; and,
- Average population of mentally ill offenders classified by Correctional Clinical Case Management System or Enhanced Outpatient Program status, as well as information about mentally ill offenders in more acute levels of care. (Pen. Code, 2063.)

*Existing law* establishes the Office of the Inspector General (OIG) and provides that it is responsible for contemporaneous oversight of internal affairs investigations and the disciplinary process of CDCR. (Pen. Code, §§ 6125-6126.)

*Existing law* requires the OIG, when requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, to review policies, practices, and procedures of CDCR. (Pen. Code, § 6126, subd. (b).)

*Existing law* establishes the California Rehabilitation Oversight Board (C-ROB) within the OIG. Requires that C-ROB meet at least twice annually and regularly examine the various programs for inmates and parolees operated by CDCR. (Pen. Code, §§ 6140-6141.)

*This bill* provides that it is the intent of the Legislature that CDCR, the OIG, and C-ROB regularly provide information to the Legislature to allow it to better assess the performance of the department in establishing all of the following:

- Rehabilitative program performance targets, including an analysis of the cost-effectiveness of those programs and an analysis of the programs' success at reducing recidivism.
- Systems to ensure that rehabilitative programs provide a significant benefit to program participants, and that those benefits are commensurate with the Legislature's investment in rehabilitative programs.
- Processes to ensure that inmates who are most in need of rehabilitative programs do in fact receive access to those programs.

*This bill* requires CDCR to report, on or before January 10, 2020, and annually thereafter, to the Joint Legislative Budget Committee and to the public safety committees of both houses of the Legislature on CDCR's implementation of the State Auditor's recommendations as contained in the 2019 report entitled "Several Poor Administrative Practices Have Hindered Reductions in Recidivism and Denied Inmates Access to In-Prison Rehabilitation Programs." Requires the annual report to include all of the following:

- Data on rehabilitation program success, including participant testimony, as specified
- The percentage of inmates that were recommended for rehabilitation programs who actually received the rehabilitation services.
- Data on the placement of inmates on rehabilitation program waiting lists after they have been identified as candidates for rehabilitation programs.
- Data on staffing levels for rehabilitation programs and a description of current efforts to reach full staffing.
- The number of sanctions or other adverse actions taken against rehabilitation program vendors in the previous calendar year.
- Data on Prison Industry Authority program participation and a description of efforts to increase participation.
- Data on infrastructure capacity for rehabilitation programs and additional space needed, if any.
- Data on federal recidivism funds applied for CDCR in the prior calendar year.
- Data on rehabilitation program completion rates.
- Data on inmates receiving rehabilitation programs in their areas of expressed need.
- Data on recidivism rates for each rehabilitation program in operation over the previous calendar year.
- Data on the success of volunteer programs in rehabilitation and preventing recidivism.

*This bill* provides that the reporting requirement sunsets on January 10, 2024.

*This bill* requires the OIG to provide public oversight of CDCR's data collection and reporting process as required by this bill and to issue a public report, no less than once per year, summarizing its oversight and recommendations.

*This bill* requires CDCR to provide a copy of the report to C-ROB and present a summary of the report during the C-ROB's next public meeting. Requires C-ROB to review and discuss the CDCR's report and consider the information provided in the department's report when making findings and recommendations.

*This bill* provides additional legislative findings and declarations stating that it is the intent of the Legislature to require CDCR to do all of the following with respect to rehabilitation programs operated in state prisons:

- Evaluate the effectiveness of rehabilitation programs.
- Establish performance measures, including ones for reducing recidivism and determining the cost-effectiveness of rehabilitation programs, in order to improve oversight of rehabilitation programs.
- Improve the efficient use of existing rehabilitation resources.

*This bill* requires CDCR to do all of the following:

- By June 30, 2020, draft a scope of work, select and contract with an external researcher to conduct a recidivism analysis of the effectiveness of rehabilitation programs, define the data elements for purposes of the analysis, and create performance targets.
- Exempts contracts awarded pursuant to this bill from the Public Contract Code and the State Administrative Manual, and provides that they are not be subject to the approval of the Department of General Services.
- During the 2020–21 fiscal year:
  - Ensure that the selected external researcher conducts and completes a recidivism analysis pursuant to the scope of work.
  - Develop and implement a corrective action plan in response to the recidivism analysis and performance targets identified.
- During the 2021–22 fiscal year:
  - Modify, as necessary, and continue implementing, the corrective action plan.
  - Given the results of the recidivism analysis, create new performance targets and policies, and modify or eliminate rehabilitation programs that are proven ineffective.
  - Prepare a report on the recidivism analysis, performance targets, and corrective action plan.
- By June 1, 2022, and annually thereafter, requires CDCR to submit to the Legislature the required report.

*This bill* provides that the reporting requirement sunsets on June 1, 2026.

## COMMENTS

### 1. Need for This Bill

According to the author:

California state prisons house approximately 130,000 inmates annually and release tens of thousands of the formerly incarcerated offenders back in to communities each year. Various in-prison rehabilitation programs are offered to inmates to improve the likelihood that offenders will lead a productive, crime-free life upon release. . . . In-prison rehabilitative programs represent 3% of CDCR's total budget – \$298 million in fiscal year 2018–19. The primary goal of these in-prison programs is to reduce the recidivism rate, which has averaged about 50% over the last decade – meaning that half of the inmates who were released, re-offended within 3 years of their release date.

In April of last year, the Joint Legislative Audit Committee approved an audit request to evaluate the effectiveness of the In-Prison Rehabilitative Programs of the California Department of Corrections and Rehabilitation (CDCR). This request stemmed from a Legislative Analyst Office (LAO) report from December of 2017 on “Improving In-Prison Rehabilitation Program,” which found several shortcomings. The LAO's report concluded that “CDCR has a flawed approach for measuring program performance, which makes it difficult to determine whether existing program resources are being used effectively.”

. . . The Auditor's analysis of inmates released from prison in fiscal year 2015-16 found that inmates who completed their recommended CBT rehabilitation programs recidivated at about the same rate as inmates who were not assigned to those rehabilitation programs. The audit points to a number of factors, from out-of-date assessment tools to not ensuring that program vendors are utilizing evidence-based curriculum. In fact, the Auditor reviewed contracts for vendors that provided CBT classes at 10 of CDCR's 36 prisons and found that nearly 20% of their respective curricula were not evidence based.

Perhaps most alarming of the Auditor's findings was that CDCR has failed to meet any of the rehabilitative needs for 62% of the inmates released in fiscal year 2017-18 who had been assessed as at risk of recidivating . . . [and] that CDCR has neither developed any performance measures for its rehabilitation programs, such as a target reduction in recidivism, nor has it assessed program cost-effectiveness. . . .

AB 1688 will codify the Auditor's recommendations and require annual reporting to the Legislature in order to provide effective oversight. Through coordination between CDCR, the Office of the Inspector General and the California Rehabilitation Oversight Board, AB 1688 will ensure that CDCR's rehabilitation programs reduce recidivism. . . .

AB 1688 will result in a thorough evaluation of the effectiveness of our rehabilitation programs to ensure that these programs in state prisons do indeed promote reductions in recidivism. This bill will take necessary steps to ensure that public funds are being properly utilized, and the state is fulfilling the rehabilitative component of the correctional experience.

## 2. California Rehabilitation Oversight Board (C-ROB)

Among other things, AB 900 (Solorio), Chapter 7, Statutes of 2007, created the California Rehabilitation Oversight Board (C-ROB) within the Office of the Inspector General (OIG). C-ROB's mandate is to regularly examine the various mental health, substance abuse, educational, and employment programs for inmates and parolees operated by the CDCR. (<https://www.oig.ca.gov/pages/c-rob.php#>.)

C-ROB is required to meet at least biannually and submit reports to the Governor and the Legislature annually, on September 15. C-ROB reports include findings on the effectiveness of treatment efforts, rehabilitation needs of offenders, gaps in offender rehabilitation services in the department, and levels of offender participation and success in the programs. C-ROB also makes recommendations to the Governor and the Legislature with respect to modifications, additions, and eliminations of offender rehabilitation and treatment programs. C-ROB reports are available to the public on its website.

## 3. State Auditor's Report

Following an LAO report on CDCR's in-prison rehabilitative programming, the Joint Legislative Audit Committee approved an audit request to evaluate the effectiveness of those programs. The State Auditor released a report regarding the effectiveness of in-prison rehabilitation programs at CDCR in January 2019. (California State Auditor, *Several Poor Administrative Practices Have Hindered Reductions in Recidivism and Denied Inmates Access to In-Prison Rehabilitation Programs*, Report 2018-113 <<https://www.bsa.ca.gov/pdfs/reports/2018-113.pdf>>.)

To reduce the likelihood of inmates reoffending within three years of their release dates, CDCR began increasing inmates' access to in-prison rehabilitation programs to meet the needs of inmates before their release from one of the state's prisons. Although the number of inmates housed in state prisons has decreased over the years, the recidivism rate for inmates in California has remained relatively constant. In addition to academic and vocational programs, CDCR has expanded its cognitive behavioral therapy (CBT) programs, which are designed to correct an inmate's patterns of thinking and behavior. CDCR determines what in-prison rehabilitation programs inmates need through the assessments that it requires inmates to take upon entering an institution. (<https://www.bsa.ca.gov/pdfs/factsheets/2018-113.pdf>)

The report included the following key findings: 1) CDCR's CBT programs have not reduced recidivism; 2) CDCR has neither placed inmates on program waiting lists appropriately nor assigned inmates to the programs necessary to address their rehabilitative needs, and 3) CDCR has not established performance measures for its rehabilitation programs nor has it measured their cost effectiveness and thus does not know if its programs reduce recidivism. (Auditor's Report, *supra* at pp. 1-2.)

Regarding CBT programs, the report concluded that CDCR has not properly assessed its own ability to determine inmates' needs and therefore is potentially placing certain inmates into programs that will not be the most effective at reducing the possibility of reoffending. (*Id.* at p. 16.) In addition, the report observed that a lack of oversight by CDCR resulted in numerous CBT programs being administered that have not been evaluated and shown to have a positive impact on program participants. (*Id.* at p. 19.) According to the report, 17 percent of the CBT programming that it reviewed in CDCR facilities had not been shown to be effective at reducing recidivism. (*Ibid.*) For waitlist issues, the report found that CDCR has historically struggled with high staff vacancy rates for its academic and vocational education programs. (*Id.* at p. 23.) In addition, the report found that CDCR did not consistently follow its own policies with respect to waitlists and that "waiting lists have been ineffective at prioritizing inmates based on their risks and needs." (*Id.* at p. 24-45, 27.) Notably, for the three prisons the Auditor reviewed, the enrollment rate for all rehabilitation programs—vocational, academic, CBT, and CALPIA—was 45 to 76 percent of full capacity. (*Id.* at p. 30.) Finally, the report indicates that CDCR has not yet established performance measures for rehabilitation programs and therefore does not know the extent of their cost-effectiveness. (*Id.* at p. 35.)

The report concludes with a number of recommendations to the Legislature, C-ROB, and CDCR. This bill combines a number of those recommendations, including requiring CDCR to establish performance targets, to partner with external researchers to evaluate the effectiveness of its rehabilitation programs, and to report annually on its progress to implement the Auditor's recommendations, including specific data points. This bill adopts the report's three-year plan for improving accountability and oversight of CDCR's rehabilitation programs.

#### **4. CDCR Response to the Audit**

In response to the audit, CDCR submitted the following letter which was included in the Auditor's report:

The California Department of Corrections and Rehabilitation (CDCR) submits this letter in response to the California State Auditor's (CSA) audit of CDCR's in-prison rehabilitation programs.

CDCR considers rehabilitation one of its highest priorities. In the most recent fiscal years following California's historic recession, CDCR placed significant focus on re-establishing rehabilitative programs statewide. CDCR continues to champion a culture focused on rehabilitation that addresses the critical needs of the Department's population. CDCR's rehabilitation efforts go beyond the in-prison Cognitive Behavior Therapy (CBT) programs which are the main focus of the CSA's report. As stated in the report, CBT programs comprise just 26 percent of all rehabilitative programs; the remaining 74 percent comprise academic and career technical education. CDCR believes that robust in-prison rehabilitation opportunities followed by aftercare are essential to holistically addressing the criminogenic needs of the offender population and truly impacting recidivism.

CSA's report on CDCR's in-prison programming highlights areas where CDCR is already taking action to improve. Moreover, CDCR's significant efforts in recent fiscal year go beyond those raised in the report. These current efforts include:

- *Creation of in-prison cognitive behavioral treatment program accountability and fidelity tools.*  
In collaboration with external researchers, CDCR has developed and is currently implementing program accountability and fidelity tools. Research shows that fidelity can significantly impact the efficacy (recidivism effects) of programming. CDCR believes that ensuring vendors adhere to the fidelity of the implemented models will produce reductions in recidivism.
- *Modification to in-prison CBT contracts.*  
CDCR is already in the process of finalizing future treatment contract language to ensure that CDCR vendors are delivering treatment programming consistent with the highest likelihood for positive outcomes.
- *Development and implementation of technology tools aimed at improving offenders' engagement in rehabilitative programs.*  
In the previous fiscal year, data analytic tools were developed and implemented to ensure that CDCR staff have the ability to prioritize offender placement into programming. Additionally, weekly and detailed monthly reports have been developed to further monitor performance expectations at the local level. These tools, combined with planned technology initiatives in 2019, will help ensure that the right offenders are getting into the right programs at the right time.
- *Expansion and development of career technical education.*  
CDCR will continue to work in collaboration with Prison Industry Authority to establish career technical education programs that best prepare inmates for employment and success upon reentry.
- *Conduct research on CDCR rehabilitative programs.*  
CDCR will continue the development of partnerships with external researchers to allow for output and outcome-based research opportunities that demonstrate the full impact of programming on the offender population. As noted in the audit, because of recent expansions, CDCR has continued to focus on a number of priority issues critical to robust research, including data collection, data extraction, and program accountability and fidelity.

CDCR welcomes the insights provided by the auditors and would like to thank CSA for their work on this report. CDCR will address the specific recommendations in a corrective action plan within the timelines outlined in the report. (*Id.* at pp. 61-62.)

## 5. Amendments

The author plans to take amendments in committee that do the following: 1) incorporate Section 2 of the bill into Section 1 of the bill; 2) change the timelines for the external researcher's recidivism analysis and the CDCR reports to be completed; 3) require CDCR to complete one interim report and one final report based on the recidivism analysis rather than require annual reporting.