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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair  
2023 - 2024 Regular

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**Bill No:** AB 1723                      **Hearing Date:** July 11, 2023  
**Author:** Waldron  
**Version:** June 26, 2023  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** SJ

**Subject:** *Crimes: local carceral facility visitation*

## HISTORY

**Source:** Insight Garden Program

**Prior Legislation:** None

**Support:** California Attorneys for Criminal Justice; California Public Defenders Association

**Opposition:** None known

**Assembly Floor Vote:** 79 - 0

## PURPOSE

*The purpose of this bill is to require the Board of State and Community Corrections (BSCC) to adopt regulations that establish a uniform process to permit a person previously convicted of a felony and employed by an organization that provides rehabilitative programming, or associated with an organization that provides mentorship to currently incarcerated individuals, to enter a local detention facility to provide those services, and require local detention facilities to make the visitor approval process available and inform an applicant who was denied approval to visit of the appeal process.*

*Existing law* establishes the BSCC. (Pen. Code, § 6024, subds. (a).)

*Existing law* provides that the mission of the BSCC is to provide statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system, including addressing gang problems. Provides that this mission reflect the principle of aligning fiscal policy and correctional practices, including, but not limited to prevention, intervention, suppression, supervision, and incapacitation, to promote a justice investment strategy that fits each county and is consistent with the integrated statewide goal of improved public safety through cost-effective, promising, and evidence-based strategies for managing criminal justice populations. (Pen. Code, § 6024, subd. (b).)

*Existing law* requires the BSCC to establish minimum standards for local correctional facilities, and requires the BSCC to review those standards biennially and make any appropriate revisions. (Pen. Code, § 6030, subd. (a).)

*Existing law* requires that the minimum standards include, but not be limited to, health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local correctional facilities, and personnel training. (Pen. Code, § 6030, subd. (b).)

*Existing law* defines “local detention facility” as any city, county, city and county, or regional facility used for the confinement for more than 24 hours of adults, or of both adults and minors, but does not include that portion of a facility for the confinement of both adults and minors which is devoted only to the confinement of minors. Also includes any city, county, city and county, or regional facility, constructed on or after January 1, 1978, used for the confinement, regardless of the length of confinement, of adults or of both adults and minors, but does not include that portion of a facility for the confinement of both adults and minors which is devoted only to the confinement of minors; any facility that holds local prisoners under contract on behalf of a city, county, or city and county, except as provided; and a court holding facility within a superior court. Specifies that it does not include those rooms that are used for holding persons for interviews, interrogations, or investigations, and are either separate from a jail or located in the administrative area of a law enforcement facility. (Pen. Code, § 6031.4.)

*Existing law* makes it a felony for a person who has previously been convicted of a felony and confined in any state prison to enter the grounds of any state prison, prison road camp, prison forestry camp, or other prison camp or prison farm, or any jail or any county road camp in the state, without the consent of the warden or other officer in charge. (Pen. Code, § 4571.)

*This bill* requires the BSCC to adopt regulations on or before January 1, 2025 that establish a uniform process to permit a person previously convicted of a felony who was confined in a state prison, is not currently charged with the commission of an offense, and is currently employed by a community-based organization that provides rehabilitative programming to currently incarcerated individuals to come upon the grounds of a local detention facility, as defined.

*This bill* requires the BSCC to adopt regulations on or before January 1, 2025 that establish a uniform process to permit a person previously convicted of a felony who was confined in a state prison, is not currently charged with the commission of an offense, and is currently associated with an organization that has the primary goal of providing mentorship to currently incarcerated individuals to come upon the grounds of a local detention facility, as defined, to provide mentorship services to individuals incarcerated in the facility.

*This bill* requires the local detention facility to make any needed changes to procedures and forms to facilitate the requirements related to permitting a person previously convicted of a felon to provide rehabilitative programming or mentorship services in a local detention facility as described above.

*This bill* requires the facility to publish on its website, and otherwise make available, the approval process for visitors who plan to provide rehabilitative programming or mentorship services in the facility as described above.

*This bill* requires the applicant to be informed of a process to appeal a denial of their request to visit if the application is denied. Provides that a basis for appeal is demonstrating “evidence of rehabilitation.”

*This bill* provides that the final decision of entry is at the discretion of the sheriff or other administrator of the facility.

*This bill* provides that “mentorship” includes meeting with, conducting educational programming for, or facilitating dialogue between incarcerated individuals within the facility.

*This bill* provides that “evidence of rehabilitation” includes, but is not limited to, the following:

- A person’s satisfactory compliance with all terms and conditions of parole, probation, mandatory supervision, or postrelease community supervision. Prohibits the person’s inability to pay fines, fees, and restitution due to indigence from being considered noncompliance with the terms and conditions of parole or probation.
- Evidence of maintaining steady employment and employer recommendations, particularly related to a person’s postconviction employment.
- Educational attainment or vocational or professional training since conviction, including training received while the person was incarcerated.
- Completion of, or active participation in, rehabilitative treatment, including alcohol or drug treatment.
- Letters of recommendation from community organizations, counselors, case managers, teachers, community leaders, parole officers, and probation officers who have observed the person since the person’s conviction.
- The age of the person at the time of the conviction and the amount of time that has passed since the conviction.
- A credible explanation of precedent coercive conditions, including physical, emotional, or sexual abuse, domestic violence, sexual assault, dating violence, stalking, whether the person was the victim of crime, untreated substance abuse, mental illness, or disability that contributed to the conviction.
- Evidence that the individual has maintained good standing in the community since the conviction.

*This bill* includes an exception to the general prohibition that makes it a felony for an individual formerly incarcerated in state prison for a felony to enter jail grounds without the consent of the officer in charge of the facility for those individuals who have been authorized to enter the facility.

## COMMENTS

### 1. Need For This Bill

According to the author:

Mentorship is a key part of rehabilitation. Meeting with and learning from someone who has shared similar experiences is a way to gain trust, and perspective, and keep incarcerated people on the right path. People who have turned their lives around and are part of organizations with a mission of mentorship and reducing recidivism should have access to a streamlined entry process without having to jump through multiple hoops.

## 2. Rehabilitative Programing and Mentorship by Formerly Incarcerated Individuals

Some research suggests that peer mentorship by formerly incarcerated persons leads to improved reentry outcomes. (Esther Matthews, *Peer-Focused Prison Reentry Programs: Which Peer Characteristics Matter Most?* (2021) available at <<https://journals.sagepub.com/doi/full/10.1177/26326663211019958>>.) “Organizations tasked with rehabilitation in various contexts have demonstrated that people with similar lived experiences may be best positioned to help individuals set aside dangerous or unhealthy lifestyles.” (*Ibid.*) For example, formerly incarcerated mentors helped mentees returning to the community connect to education, employment, transportation, legal, and housing resources, all while modeling effective coping strategies and interpersonal skills. (*Ibid.*) People leaving incarceration frequently reported finding it easier to ask for help from a peer mentor who had successfully transitioned from prison to the community. (*Ibid.*) Because their mentors had successfully navigated the reentry experience, they were knowledgeable about which resources were reliable. (*Ibid.*) Research further suggests that incarcerated individuals tend to view formally incarcerated mentors as more credible due to their shared lived experiences. Their “credibility is derived from the ability to understand the various inner pains caused by the experience of incarceration.” (*Ibid.*) Ultimately, “mentoring was more than just providing advice about how to find housing and employment; it was providing advice about how to do those things while recovering from the deep and varied wounds of incarceration.” (*Ibid.*) In one study, “prison staff also often noted their lack of a lived experience as limiting their ability to offer credible reentry support.” (*Ibid.*)

Under existing law, it is a felony for an individual who was formerly incarcerated in state prison to enter a jail without the consent of the officer in charge of the facility. (Pen. Code, § 4571.) This prohibition applies even if the formerly incarcerated person works for or with an organization that provides rehabilitative programming or mentorship to incarcerated individuals. Accordingly, this prohibition limits the number of people with lived experiences who can provide rehabilitative services and mentorship to the populations housed in local correctional facilities.

This bill requires the BSCC to adopt regulations that establish a uniform process to permit a person previously convicted of a felony who served their sentence in state prison and employed by an organization that provides rehabilitative programming, or associated with an organization that provides mentorship to currently incarcerated individuals, to enter a local detention facility to provide those services. This bill also requires local detention facilities to make available the approval process for visitors and inform an applicant who was denied approval to visit of the appeal process. This bill further specifies that evidence of rehabilitation is a basis for appeal, which can be demonstrated by a person’s satisfactory compliance with all conditions of parole, probation, mandatory supervision, or postrelease community supervision, maintenance of steady employment, or completion of, or active participation in, rehabilitative treatment, among other things.

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