
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair
2023 - 2024 Regular

Bill No: AB 581 **Hearing Date:** July 11, 2023
Author: Wendy Carrillo
Version: June 27, 2023
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Rehabilitative program providers*

HISTORY

Source: Transformative In-Prison Workgroup

Prior Legislation: None

Support: Asian Prisoner Support Committee; Boundless Freedom Project; California Catholic Conference; California Public Defenders Association; Californians for Safety and Justice; Defy Ventures; Ella Baker Center for Human Rights; GRIP Training Institute; Initiate Justice; Initiate Justice Action; KALW Public Media; Kid C.A.T.; Legal Services for Prisoners With Children; Prison Yoga Project; Root & Rebound; Sacred Justice LLC; UnCommon Law; William James Association; Women's Foundation California

Opposition: None known

Assembly Floor Vote: 79 - 0

PURPOSE

The purpose of this bill is to establish clearances for rehabilitative program providers that provide programming at state prisons.

Existing law reaffirms a commitment to reducing recidivism among criminal offenders by reinvesting criminal justice resources to support community-based corrections programs and evidence-based practices. (Pen. Code, § 17.5.)

Existing law finds and declares that incarcerated persons should have educational, rehabilitative, and restorative justice programs available so that their behavior may be modified and they are prepared to reenter the community. (Pen. Code, § 1170, subd. (a)(2).)

Existing law requires the California Department of Corrections and Rehabilitation (CDCR) to develop and implement a plan to obtain additional rehabilitation and treatment services for incarcerated persons. (Pen. Code, § 2062.)

Existing law establishes a program to provide grants to community based organizations that provide rehabilitative services to incarcerated individuals. (Pen. Code, § 5007.3.)

Existing law provides that every person previously convicted of a felony and confined in any state prison, without the consent of the warden in charge of any state prison or prison road camp, or prison forestry camp, or other prison camp or prison farm or any other place where prisoners of the state prison are located under the custody of prison officials, officers or employees, comes upon the grounds of any such institution, or lands belonging or adjacent thereto, is guilty of a felony. (Pen. Code, § 4571.)

Existing law states that every person who, without the permission the warden in charge of any state prison or prison road camp, or prison forestry camp, or other prison camp or prison farm or any other place where prisoners of the state prison are located under the custody of prison officials, officers or employees, communicates with any person detained therein is guilty of a misdemeanor. (Pen. Code, § 4570.)

This bill provides the following definitions:

- “Annual clearance” refers to a clearance allowing a program provider to enter one institution for a full calendar year.
- “Custody sponsor” refers to correctional staff at an institution assigned to escort program providers within the institution.
- “Institution” refers to a California state prison.
- “Program provider” refers to an individual affiliated with a nonprofit organization that originates outside CDCR and provides rehabilitative programming to incarcerated people.
- “Program provider identification card” refers to a clearance status that allows program providers to enter a specified institution without a custody sponsor.
- “Short-term clearance” refers to a clearance that allows a program provider to enter an institution for three or fewer days per specific event.
- “Statewide program provider identification card” refers to a clearance status provided to a program provider entering more than three institutions on a routine basis consistent with their program provider status.

This bill requires CDCR to provide forms to the institution for short-term clearances. Provides the institution can only use the forms provided by CDCR to process the short-term clearance. Provides that the forms should reflect the limited nature of this clearance and prohibits them from being overly burdensome. Prohibits an institution from requiring additional institution-specific “local” forms.

This bill prohibits CDCR from requiring a Live Scan fingerprinting for a program provider applying for a short-term clearance.

This bill prohibits CDCR from limiting the number of short-term clearances a program provider can receive.

This bill requires CDCR to notify all short-term clearance applicants of the decision to approve or disapprove the application within the following timeframes:

- Clearance for 1 to 10 people: five working days or less.
- Clearance for 11 to 20 people: 10 working days or less.
- Clearance for 21 to 30 people: 15 working days or less.
- Clearance for 30 or more people: 20 working days or less.

This bill requires CDCR to provide a standardized clearance packet to the institution for annual clearances. Requires the institution to only use the clearance packet provided by CDCR, composed only of approved forms, which allows program providers to use the same packet for different institutions. Prohibits an institution from requiring additional institution-specific “local” forms.

This bill requires a program provider applying for an annual clearance to complete a standardized clearance packet.

This bill requires a program provider applying for this clearance to be subject to the same infectious disease testing policies as CDCR staff. Requires CDCR to accept specified forms in lieu CDCR forms as documentation of testing.

This bill requires a program provider to submit fingerprints concurrently with the annual clearance application and that the fingerprints be taken and processed via Live Scan. Provides that if the program provider has already provided fingerprints to an institution or CDCR, no additional fingerprinting are required.

This bill provides that an annual clearance may be renewed on an annual basis.

This bill requires a program provider with an annual clearance to have either a program provider identification card or a custody sponsor.

This bill prohibits CDCR from limiting the number of annual clearances a program provider can receive.

This bill requires CDCR to notify all program provider applicants for annual clearance of the decision to approve or disapprove the application within 30 days of receipt of the application.

This bill requires CDCR to provide a standardized clearance packet to the institution for a program provider identification card. Requires the institution to only use the clearance packet provided by the department, composed only of approved forms, which allows program providers to use the same packet for different institutions. Prohibits an institution from requiring additional institution-specific “local” forms.

This bill provides that a program provider identification card is valid for five years, provided the program provider meets testing and annual training requirements.

This bill authorizes a program provider with a program provider identification card to be able to escort other authorized program providers within the institution for which the program provider identification card is valid.

This bill provides that a program provider applying for a program provider identification card is subject to the same infectious disease testing policies as CDCR staff. Requires CDCR to accept specified forms in lieu of CDCR forms as documentation of testing.

This bill requires a program provider to submit fingerprints concurrently with the clearance application and that the fingerprints be taken and processed via Live Scan. Provides that if the

program provider has already provided fingerprints to an institution or the department, no additional fingerprinting is required.

This bill prohibits CDCR from limiting the number of program provider identification cards a program provider can receive.

This bill requires CDCR to notify all program provider card applicants of the decision to approve or disapprove within 30 days of receipt of the application.

This bill provides that a statewide program provider identification card is valid for five years, provided the program provider meets testing and annual training requirements.

This bill provides that a program provider applying for a statewide program provider identification card is subject to the same infectious disease testing policies as CDCR staff. Specifies the forms that must be accepted in lieu of CDCR forms as documentation of testing.

This bill requires a program provider to submit fingerprints concurrently with the clearance application and that the fingerprints to be taken and processed via Live Scan. Provides that if the program provider has already provided fingerprints to an institution or the department, no additional fingerprinting are required.

This bill provides that a program provider with a statewide program provider identification card is able to escort other authorized program providers within each institution for which the statewide program provider identification card is valid.

This bill authorizes a program provider with a statewide program provider identification card to provide programs without a custody sponsor.

This bill provides that a program provider may immediately request a program provider identification card if it has been providing programming for a minimum of six months at more than three institutions, when approved to provide programs at any additional institutions.

This bill requires CDCR to notify all statewide program provider card applicants of the decision to approve or disapprove the application within 30 days of receipt of the application.

This bill requires CDCR to designate a standardized approval process for people who were formerly incarcerated and who are applying for all clearances covered by the provisions of this bill.

This bill prohibits CDCR from excluding people who were formerly incarcerated from applying based on the type of institution or local area the person is applying to, unless extraordinary circumstances exist, such as verified or credible evidence by a warden that the person who was formerly incarcerated has introduced contraband into the institution.

This bill requires the Division of Adult Parole Operations to provide documentation for applicants who were formerly incarcerated and are currently on parole, and who require documentation from the division to be provided any type of clearance, within 14 calendar days of the receipt of the request.

This bill requires an institution to write and explain in a memorandum the reasons for denying a formerly incarcerated person's program provider application for clearance.

This bill provides that denial of applications for clearance are grounds for an appeal, and requires an appeal of denial of application for clearance to be resolved within 90 days.

This bill requires CDCR to notify all program provider applicants for clearance of their right to appeal clearance decisions and of the process for filing an appeal. Requires CDCR to notify all program provider applicants for clearance of the final disposition of their appeal within 90 days.

This bill requires CDCR to enter into a contract with the Department of Justice (DOJ) in order to receive notifications of subsequent state or federal arrests or dispositions for program providers applying for an annual clearance, a program provider identification card, or a statewide program provider identification card.

This bill requires CDCR to immediately notify DOJ when a program provider who is applying for or who has been approved for an annual clearance, a program provider identification card, or a statewide program provider identification card notifies CDCR that the program provider wishes to terminate the application, the annual clearance, the program provider identification card, or the statewide program provider identification card, or if the annual clearance, the program provider identification card, or the statewide program provider identification card is revoked or is not renewed, in order to terminate state or federal subsequent notifications for that program provider.

This bill requires DOJ to terminate state or federal subsequent notifications on any program provider upon the receipt of a notice from CDCR.

This bill requires CDCR, upon receiving notification of a subsequent state or federal arrest or disposition for a program provider with an annual clearance, a program provider identification card, or a statewide program provider identification card, to reassess these clearances, and may revoke the annual clearance, the program provider identification card, or the statewide program provider identification card if the department deems it warranted.

This bill requires CDCR to immediately notify DOJ if it receives a notification of a state or federal subsequent arrest or disposition for a person unknown to the department, or for a program provider for whom the annual clearance, the program provider identification card, or the statewide program provider identification card has been terminated, not renewed, or revoked. Prohibits CDCR from recording or otherwise retaining any information received as a result of the subsequent notice.

COMMENTS

1. Need For This Bill

According to the author:

Over the last five years, the legislature has invested significant taxpayer dollars toward community based organization programming. While these programs are being positioned to expand and provide high-need services, program providers continue to cite access issues as a serious barrier in delivering these services to incarcerated people who need and want programs. Addressing access issues is

fundamental to ensure the continuity and success of these programs, AB 581 addresses routine access issues to further facilitate the delivery of vital programs. This bill seeks to optimize State funding by eliminating wasteful practices that detract from program providers' limited resources.

2. Existing CDCR Policies on Volunteers

Categories of Volunteers

According to CDCR, there are three statuses for volunteers and program providers: outside guests, provisional volunteers, and regular volunteers. Outside guests are individuals who provide services on a temporary or infrequent basis and include guest speakers associated with community-based organizations, individuals who volunteer their talents for entertainment purposes or participate in an athletic event, and those who have been approved to observe or monitor such events. Provisional volunteers or program providers are individuals who provide escorted service as determined by the facility's Community Resources Manager, and are subject to performance evaluation review. Regular volunteers or program providers are individuals who provide services on an ongoing basis and have completed a minimum of six months of evaluation as a provisional volunteer at the institution. Services provided by regular volunteers are generally performed under indirect supervision and are subject to performance requirements and evaluations. A volunteer seeking regular volunteer status who provides services at multiple institutions shall complete a six month evaluation period at each institution, unless otherwise approved by the warden at the specific institution. Regular volunteers may be allowed unescorted access to their programming area with the use of volunteer identification cards.

Regular volunteers or program providers can enter facilities without an escort if they hold a Volunteer Identification Card. Volunteers and Program Providers may obtain an unescorted gate clearance and Volunteer Identification Card upon approval and regular service to the incarcerated population. The warden or designee determines Volunteer Identification Card Status. Volunteer mentors are regular volunteers that have been approved by the warden to provide ongoing rehabilitative guidance and support to one or more incarcerated persons. (CDCR, *Volunteer and Program Providers* <<https://www.cdcr.ca.gov/community-partners/volunteer-and-program-providers/>>.)

Process to Become a Volunteer

Individuals interested in volunteering and becoming program service providers need to coordinate with the Community Resources Manager (CRM) at each institution. All of the following items must be submitted or completed: letter of interest, volunteer and program service provider application, training, Live Scan fingerprinting, and tuberculosis screening.

All new applicants that would like to be a volunteer or program provider must submit a letter that provides justification of the services they are providing, how long they have been providing services, where they have been providing services as well as the applicant's employment, academic status, and participation in the community. The volunteer and program service provider application includes several forms, including a service agreement, tuberculosis certification, and request for volunteer contact with inmates, among others. Regular and provisional volunteers must complete volunteer training modules annually on topics such as communicable disease prevention, the Prison Rape Elimination Act, fire prevention and life safety, and sexual harassment prevention. (CDCR, *Becoming a Volunteer or Program Provider*

<<https://www.cdcr.ca.gov/community-partners/volunteer-and-program-providers/becoming-a-volunteer-or-program-service-provider/>>.)

This bill directs CDCR to standardize the volunteer and program provider approval process in order to simplify the processes that program providers must adhere to in order to provide rehabilitative services in prisons.

3. Clearance for Formerly Incarcerated Persons Who Provide Rehabilitative Programming

According to CDCR, wardens may approve formerly incarcerated persons, parolees, and those on probation to serve as volunteers or program providers. In addition to all of the other existing requirements, CDCR's website further provides that formerly incarcerated individuals interested in becoming a volunteer or program provider must submit the following, as applicable: if on parole, "written approval from a regional parole administrator"; if under supervised probation, "written approval from chief probation officer"; and, if currently on an informal probation, "written approval from the court or representative of the court." (CDCR, *Volunteer and Program Providers* <<https://www.cdcr.ca.gov/community-partners/volunteer-and-program-providers/becoming-a-volunteer-or-program-service-provider/>>.)

This bill requires CDCR to designate a standardized approval process for formerly incarcerated individuals who are applying for any of the four types of clearances. This bill also prohibits CDCR from excluding people who were formerly incarcerated from applying based on the type of institution or local area the person is applying to, unless extraordinary circumstances exists. This bill additionally requires the Division of Adult Parole Operations to provide documentation for applicants currently on parole within 14 calendar days of the receipt of the request.

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