
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: AB 731 **Hearing Date:** June 29, 2021
Author: Bauer-Kahan
Version: February 16, 2021
Urgency: No **Fiscal:** Yes
Consultant: KW

Subject: *County jails: recidivism: reports*

HISTORY

Source: Author

Prior Legislation: AB 2483 (Bauer-Kahan), vetoed in 2020
AB 2521 (Hagman), held in Senate Appropriations 2014
AB 1050 (Dickinson), Ch. 270, Stats. 2013

Support: California Alliance for Youth and Community Justice; California Public Defenders Association; Ella Baker Center for Human Rights; Initiate Justice; Pacific Juvenile Defender Center; San Francisco Public Defender; Shields for Families; Time Done

Opposition: California State Sheriffs' Association; Los Angeles County Sheriff's Department; San Bernardino County Sheriff's Department

Assembly Floor Vote: 67 - 0

PURPOSE

The purpose of this bill is to require the sheriff in each county to compile and submit specified data related to their antirecidivism programs and success rates in reducing recidivism to the Board of State and Community Corrections (BSCC) and to require the BSCC to compile that data into a report to be submitted to the Legislature.

Existing law establishes the Board of State and Community Corrections (BSCC). (Pen. Code, § 6024, subd. (a).)

Existing law states it is the duty of the BSCC to collect and maintain available information and data about state and community correctional policies, practices, capacities, and needs, including, but not limited to, prevention, intervention, suppression, supervision, and incapacitation, as they relate to both adult corrections, juvenile justice, and gang problems. The board shall seek to collect and make publicly available up-to-date data and information reflecting the impact of state and community correctional, juvenile justice, and gang-related policies and practices enacted in the state, as well as information and data concerning promising and evidence-based practices from other jurisdictions. (Pen. Code, § 6027, subd. (a).)

Existing law requires the BSCC to do the following, among other things:

- Develop recommendations for the improvement of criminal justice and delinquency and gang prevention activity throughout the state;
- Identify, promote, and provide technical assistance relating to evidence-based programs, practices, and promising and innovative projects consistent with the mission of the board;
- Receive and disburse federal funds, and perform all necessary and appropriate services in the performance of its duties as established by federal acts;
- Develop procedures to ensure that applications for grants are processed fairly, efficiently, and in a manner consistent with the mission of the board;
- Identify delinquency and gang intervention and prevention grants that have the same or similar program purpose, are allocated to the same entities, serve the same target populations, and have the same desired outcomes for the purpose of consolidating grant funds and programs and moving toward a unified single delinquency intervention and prevention grant application process in adherence with all applicable federal guidelines and mandates;
- Cooperate with and render technical assistance to the Legislature, state agencies, local governments, or other public or private agencies, organizations, or institutions in matters relating to criminal justice and delinquency prevention;
- Develop incentives for units of local government to develop comprehensive regional partnerships whereby adjacent jurisdictions pool grant funds in order to deliver services, to a broader target population and maximize the impact of state funds at the local level;
- Conduct evaluation studies of the programs and activities assisted by the federal acts;
- Identify and evaluate state, local, and federal gang and youth violence suppression, intervention, and prevention programs and strategies, along with funding for those efforts. (Pen. Code, § 6027, subd. (b).)

Existing law allows BSCC to do either of the following:

- Collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of criminal justice in the state; or,
- Perform other functions and duties as required by federal acts, rules, regulations, or guidelines in acting as the administrative office of the state planning agency for distribution of federal grants. (Pen. Code, § 6027, subd. (c).)

Existing law states the sheriff may provide the vocational training and rehabilitation of prisoners confined in the county jail, or any county industrial farm or county or joint county road camp through adult education classes offered at district approved secondary schools. (Pen. Code, § 4018.5.)

This bill requires each county sheriff to compile and submit the following data to the BSCC on or before January 1, 2023:

- Data on each of the antirecidivism programs they provide inmates in their county jail facilities.
- The success rates in reducing recidivism in each of those programs.

This bill clarifies that any individual who is released from custody and reoffends shall be counted as part of the data collected.

This bill requires the BSCC to compile a report using the above information and to submit the report to the Legislature by July 1, 2023.

This bill includes a sunset date of July 1, 2027 and provides that the provisions of this bill are fully repealed as of January 1, 2028.

COMMENTS

1. Need for This Bill

According to the author:

The bill currently seeks to remedy the lack of transparency and accountability that exists between state and local governments. The problem was outlined by the State Auditor in a recent report:

The lack of oversight has created enormous budget surpluses, opaque spending practices and progress reports to lawmakers that are inconsistent and incomplete...

...the State allocated \$6 billion to California's counties in fiscal year 2019–20. However, because the three counties we reviewed have narrowly interpreted the scope of public safety realignment funding, their Community Corrections Partnership committees—responsible for monitoring such spending—have overseen less than 20 percent of the funding the counties receive. Each county also maintains excessive realignment surpluses, which they could spend to improve public safety. Finally, the counties lack comprehensive planning and oversight for realignment spending, without which they cannot make informed decisions.

2. Measuring Recidivism

This bill requires each county sheriff to submit data on the county's antirecidivism programs and the success rate of each program to the BSCC to be compiled into a report in order to give the Legislature a more complete picture of recidivism across the state. This bill includes within its definition of recidivism, any person who is released from custody who reoffends. This definition differs from other definitions of recidivism used within the context of public safety in the state. For example, the California Department of Corrections and Rehabilitation has adopted the three-year reconviction rate—the share of individuals reconvicted of a new offense within three years of release from prison custody—as its primary measure of recidivism.

Some data on felony recidivism rates broken down by county is available due to the BSCC-PPIC Multi-County Study which was established following realignment to evaluate the statewide effects of the policy reform. The MCS identified a group of 12 counties comprising 60 percent of the state's population that reflect the demographic, economic, and geographic characteristics of the state. (Bird et al., *Recidivism of Felony Offenders in California* (June 2019), pp. 6-7 available at <<https://www.ppic.org/wp-content/uploads/recidivism-of-felony-offenders-in-california.pdf>>.)

These counties agreed to participate in the study and to share data with the researchers. Notably, prior to the creation of the study, there was no available data source to allow the state to estimate recidivism rates for individuals sentenced locally. (*Id.* at p. 8.) Rather, felony recidivism estimates had been based solely on the outcomes of the population sentenced to and released from state prison. (*Ibid.*) In reporting the study's findings, the authors cautioned that rearrests and reconviction rates are "imperfect measures of recidivism." (*Id.* at p. 9.) The authors explained:

Changes in rearrest and reconviction rates over time and across sentencing groups—for example, those sentenced to prison versus those sentenced to probation—can reflect differences in individual reoffending behavior but may also reflect variation in criminal justice system responses to that behavior. Differences in recidivism rates may also reflect variation in the underlying characteristics of offender populations. As noted below, our analysis adjusts for differences in many demographic and criminal history characteristics of the underlying population over time and across sentencing groups. However, there are some population characteristics that we may be unable to observe in our data. In addition, we are unable to separate out the role that changing law enforcement and prosecutorial decision making may have on recidivism rates. (*Ibid.*) (Internal citations omitted.)

Proponents of the bill assert that requiring the county sheriffs to collect and share data would provide a more accurate and complete understanding of recidivism rates which could assist the State in making decisions related to program funding.

3. Argument in Support

According to the California Public Defenders Association:

AB 731 will require County Sheriffs to report the nature of their anti-recidivism programs, and those programs' success rates in reducing recidivism. Recidivism can be reduced through rehabilitation by addressing the criminogenic needs of individuals within the criminal justice system. Local Sheriffs are responsible for providing the services that address these individuals' needs. Looking at success rates will afford local and State decision makers with the knowledge necessary to efficiently allocate limited resources to those programs that best reduce recidivism and encourage rehabilitation.

As public defenders, we are always urging our clients to participate in and complete whatever programs are available to them in the county jails. Without any data it's impossible to know which ones are actually benefitting our clients and their communities.

4. Argument in Opposition

According to the San Bernardino County Sheriff's Department:

AB 731 requires sheriffs to report data on each of the anti-recidivism programs they provide inmates in their county jail facilities. The scope of what is sought by

this language is unclear and is likely to yield disparate responses from the field. Additionally, the bill's definition of "recidivism" could be interpreted as requiring county jails to ascertain from courts, other jails or state prisons, potentially including such entities in other states, information as to subsequent convictions. Requiring such would be very expensive, a problem exacerbated by the fact that the bill provides no funding for its requirements. Moreover, counties do not have electronic access to court system data making it impossible to base recidivism on conviction and not arrest.

5. Author Amendments

The author plans to take the following amendment in committee:

For the purposes of this section, "recidivism" means that a person received a new felony or misdemeanor conviction or probation violation within three years from the offender's previous criminal conviction.

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