
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: SB 1254 **Hearing Date:** April 23, 2024
Author: Becker
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Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *CalFresh: enrollment of incarcerated individuals*

HISTORY

Source: Legal Services for Prisoners with Children
Nourish California

Prior Legislation: AB 3070 (Wicks), Ch. 225, Stats. 2020
AB 720 (Skinner), Ch. 646, Stats. 2013

Support: A New Way of Life Reentry Project; Alchemist CDC; All Home; All of Us or None Bakersfield; Amelia Ann Adams Whole Life Center; CA4Health; California Alliance for Youth and Community Justice; California Association of Food Banks; California Family Resource Association; California Food and Farming Network; California Public Defenders Association; Californians for Safety and Justice; Californians United for A Responsible Budget; Caravan 4 Justice; Ceres Community Project; Child Abuse Prevention Center; Communities United for Restorative Youth Justice; Community Action Partnership of Orange County; Community Legal Services in East Palo Alto; Critical Resistance, Los Angeles; CURE California; Families Inspiring Reentry & Reunification 4 Everyone; Food for People, the Food Bank for Humboldt County; Freedom 4 Youth; Fresh Approach; GLIDE; GRACE-End Child Poverty in CA; Haywood Burns Institute; Healthright 360; Initiate Justice; Initiate Justice Action; Justice in Aging; LA Defensa; Lawyers' Committee for Civil Rights of the San Francisco Bay Area; Legal Aid Foundation of Los Angeles; Marin Food Policy Council; MILPA Collective; Nextgen California; Pesticide Action Network North America; Prison From The Inside Out; Public Counsel; Rising Communities; Riverside All of Us or None; Root & Rebound; Roots of Change; Rubicon Programs; Sacramento Food Policy Council; San Diego Hunger Coalition; San Francisco Public Defender; San Francisco-Marin Food Bank; Second Harvest Food Bank of Orange County; Second Harvest of Silicon Valley; Sister Warriors Freedom Coalition; The Praxis Project; United Way of Greater Los Angeles; University of San Francisco School of Law, Racial Justice Clinic; Urban Peace Movement; Veggielution; Young Women's Freedom Center

Opposition: California State Sheriffs' Association; County Welfare Directors Association of California

PURPOSE

The purpose of this bill is to improve access to CalFresh for people upon reentry following incarceration by: 1) requiring the California Department of Corrections and Rehabilitation (CDCR) and county jails to partner with the Department of Social Services (CDSS) to pre-enroll otherwise eligible applicants for CalFresh; 2) requiring county eligibility workers to regularly enter any state prison or county jail to assist individuals who are within 90 days of release with completing a CalFresh benefits application; 3) requiring CDSS to create a workgroup to provide recommendations for a state reentry process and report those recommendations annually beginning August 31, 2026; 4) requiring CDSS to partner with the Department of Health Care Services (DHCS) to create and test a combined Medi-Cal and CalFresh pre-enrollment application by January 1, 2026; and 5) requiring CDSS to submit applicable waivers to the federal government by January 1, 2026 to allow for CalFresh pre-enrollment prior to applicants' release from state prison or county jail.

Existing federal law establishes the Supplemental Nutrition Assistance Program (SNAP) to promote the general welfare and to safeguard the health and wellbeing of the nation's population by raising the levels of nutrition among low-income households. (7 U.S.C., § 2011 et seq.)

Existing federal law permits the federal Food and Nutrition Services (FNS) to authorize waivers to deviate from specific regulatory provisions for certain reasons, including in situations where FNS determines that the waiver would result in a more effective and efficient administration of the program, among other reasons. (7 C.F.R. § 272.3(c)(1)(ii).)

Existing federal law prohibits certain individuals from being eligible to participate as separate households or as a member of any household for purposes of determining SNAP eligibility, including, residents of an institution, and, further, specifies that a person is considered a resident of an institution when the institution provides them with a majority of their meals (over 50 percent of three meals daily) as part of the institution's normal services. (7 C.F.R. § 273.1(b)(7)(vi).)

Existing federal law establishes work requirements for SNAP benefits, for those who are not exempt, which includes participation in SNAP Education and Training, among other criteria. (7 C.F.R. § 273.7.)

Existing law establishes the CalFresh Program to administer the provision of federal SNAP benefits to families and individuals meeting specified criteria. (Welf. & Inst. Code, § 18900 et seq.)

Existing law requires CDSS to issue an all-county letter containing recommendations and suggested methods for county human services agencies to partner with the CDCR and county jails to enroll otherwise eligible applicants for the CalFresh program to ensure that an applicant's benefits may begin as soon as possible upon reentry of the applicant into the community from the state prison or a county jail no later than September 1, 2022. (Welf. & Inst. Code, § 18901.35, subd. (a)(1).)

Existing law requires the all-county letter to include, but not be limited to, all of the following:

- Information on the benefits of enrolling formerly incarcerated individuals into the CalFresh program.
- Information on acceptable forms of identification necessary to complete an application for CalFresh benefits, including information on how to verify an applicant's eligibility for expedited service, as defined.
- Information on how to connect individuals released from the state prison with employment or employment opportunities, including how counties may work with CDCR to connect individuals to employment opportunities related to any experience, training, and education that the individual has obtained, including experience, training, and education obtained while in state prison.
- Encourages counties to require county eligibility workers to regularly enter any state prison or county jail within the county to conduct interviews and assist individuals that are within 45 days of release from state prison or county jail with completing applications for CalFresh benefits. Provides that this assistance is for the purpose of establishing eligibility for CalFresh benefits prior to release from the institution. (Welf. & Inst. Code, § 18901.35, subd. (a)(2).)

Existing law requires CDSS to request a waiver from the U.S. Department of Agriculture's Food and Nutrition Service to allow for pre-enrollment of applicants prior to their release from the state prison or a county jail if the department deems it necessary to maximize CalFresh enrollment outcomes or employment placement success rates for individuals reentering the community from the state prison or a county jail. (Welf. & Inst. Code, § 18901.35, subd. (b).)

Existing law allows the use of a joint application developed by DHCS and CDSS that allows for an application to be made for multiple programs, including, but not limited to, CalWORKs, CalFresh, and insurance affordability programs. (Welf. & Inst. Code, § 15926, subd. (d).)

This bill requires CDSS to partner with CDCR and county jails to enroll otherwise eligible applicants who are ineligible because of their incarceration status for the CalFresh program to ensure that an applicant's benefits may begin as soon as possible upon reentry of the applicant into the community from the state prison or a county jail.

This bill requires CDSS to require county eligibility workers to regularly access any state prison or county jail within the county to conduct interviews and to assist individuals within 90 days of release from state prison or county jail with completing applications for CalFresh benefits. Provides that the assistance provided is for the purpose of establishing eligibility for CalFresh benefits prior to release from the institution.

This bill requires CDCR, state prisons, and county jails to cooperate with CDSS and allow county eligibility workers access.

This bill requires CDSS to partner with DHCS, on or before January 1, 2026, to create and test a Medi-Cal and CalFresh combined application for incarcerated individuals soon leaving incarceration.

This bill requires CDSS, on or before February 1, 2026, to create a workgroup to create recommendations for a state reentry process incorporating all the necessary resources for transition from state prison or county jail to reentry into the community.

This bill requires the workgroup to include the following representatives:

- Two representatives from CDSS, including one from the Disability Determination Services Division.
- One representative from community-based organizations.
- One representative from CDCR.
- One representative from the California Health and Human Services Agency.
- One representative from the County Welfare Directors Association of California.
- Two impacted individuals who were recipients of CalFresh benefits prior to release.
- A sheriff or an individual appointed by a sheriff.

This bill requires the workgroup to consider how best to increase CalFresh enrollment for otherwise eligible applicants for the CalFresh program to ensure that an applicant's benefits begin before the reentry of the applicant into the community from the state prison or county jail.

This bill requires the workgroup to consider federal programs or applicable federal waivers to reduce food insecurity for individuals leaving incarceration and to aid in the reentry process.

This bill requires the workgroup to create and submit a report to CDSS and the Legislature outlining their recommendations by August 31, 2026. Requires subsequent annual reports to be submitted by August 31.

This bill requires CDSS, on or before January 1, 2026, to seek a federal waiver to allow for pre-enrollment of applicants prior to their release from the state prison or a county jail.

This bill requires CDSS, on or before January 1, 2026, to seek a federal waiver to allow for delay of verification of incarcerated individuals for up to five months.

This bill requires CDSS to seek any other relevant federal waivers necessary to implement the provisions of the bill.

COMMENTS

1. Need For This Bill

According to the author:

The Supplemental Nutrition Assistance Program (SNAP)—called CalFresh in California—is the largest food assistance program in the nation. Under federal law, incarcerated individuals become ineligible to receive CalFresh benefits after 30 days of confinement. The USDA allows for waivers to deviate from current provisions. Twelve states have applied for waivers to allow for the pre-enrollment of incarcerated people, with programs dating as far back to 2005 in some states.

While there is already an existing re-entry process for Medi-Cal, there are no equivalent enrollment processes for CalFresh, and various other supportive services. California has previously passed legislation for pre-enrollment of state health and human services. AB 3073 (Wicks, 2020) required the California Department of Social Services (CDSS) to issue an all-county letter with

recommendations on pre-enrollment on incarcerated applicants for CalFresh. These recommendations included suggestions for collaboration between county prison, social services and jails and steps to increase CalFresh access for incarcerated people.

Every Californian deserves the opportunity for fresh, nutritious food. SB 1254 will allow and assist incarcerated people in applying for CalFresh benefits up to 90 days before their release to better prepare them for reentry. The bill will also create a workgroup within the CDSS to begin recommendations for a statewide reentry process.

By doing so, this bill decreases barriers to re-entry, helps address issues of food insecurity in California, and builds upon existing work in connecting individuals with state services in an effective manner.

2. CalFresh

CalFresh provides monthly food benefits to qualified low-income individuals and families to assist with the purchase of the food they need to maintain adequate nutrition levels. The program is administered by CDSS at the state level, and the counties are responsible for administering CalFresh at the local level.

California determines CalFresh eligibility by looking at an applicant's gross monthly income which must be 200 percent of the federal poverty level (FPL) or less for their household size. For a household of three in California, the maximum gross monthly income for CalFresh eligibility is \$4,144. For a household of one in California, the maximum gross monthly income for CalFresh eligibility is \$2,430. Households with seniors or disabled members are not subject to the gross income criteria; however, their net monthly income must be 100 percent of FPL or below.

3. Federal Restrictions on CalFresh Enrollment of Individuals Residing in Institutions

Federal regulations exclude certain individuals from SNAP eligibility. For example, residents of an institution are not eligible for SNAP benefits. Regulations state that a person is considered a resident of an institution when the institution provides them with a majority of their meals, defined as over 50 percent of three meals daily, as part of the institution's normal services. Further, an individual who is incarcerated for more than 30 days becomes ineligible to receive CalFresh benefits. Counties may not enroll individuals residing in an institution into CalFresh unless the state obtains a waiver.

States are permitted to obtain federal waivers that allow them to deviate from specific federal regulatory provisions in instances where the federal FNS determines that the waiver would result in a more effective and efficient administration of the program. This can include early or pre-enrollment of people who are exiting an institutional setting, like prison or jail. As of January 2023, 12 states have received waivers from the USDA to accept pre-release applications for residents of "institutions." (<https://www.fns.usda.gov/sites/default/files/resource-files/SNAP-Certification-Waivers-Jan-2024.xlsx>) CDSS submitted and received approval for a federal waiver from the USDA to allow Orange County to operate a pilot program through which incarcerated individuals at five county jails in Orange County could apply for CalFresh benefits up to 30 days before their release. The pilot program was approved for operation from March 1, 2021, to February 28, 2023. However, in November 2022, the pre-release application process

had not been fully implemented because the county jails were closed to visitors during the COVID-19 pandemic. (CDSS, *All County Welfare Directors Letter* (Nov. 18, 2022), p. 2 available at <https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACWDL/2022/CL_11-18-22.pdf?ver=2022-11-22-171815-397>.)

AB 3073 (Wicks, Chapter 225, Statutes of 2020) required CDSS to issue an All-County Letter containing recommendations and suggested methods for county human services agencies to partner with CDCR and county jails to pre-enroll incarcerated individuals into the CalFresh program. The department issued an All County Welfare Directors Letter on November 18, 2022, including information on the benefits of enrolling formerly incarcerating individuals in CalFresh, acceptable forms of verification, how to connect individuals released from state prison with employment or employment opportunities, and recommendations for County Welfare Directors to partner with CDCR and county jails for the purpose of CalFresh pre-release applications. (*Id.* at pp. 2-5)

According to the Letter, “[T]he incarcerated population in California includes over 110,000 individuals, of whom over 10,000 are released annually. Formerly incarcerated individuals often experience post-release challenges including chronic health conditions, poor mental health, unstable housing, and difficulty finding and keeping employment.” (*Id.* at pp. 2-3.) The Letter further stated that research has linked access to federal food benefits to a lower likelihood of returning to prison within the first year of release, when formerly incarcerated individuals are most likely to become incarcerated again. (*Id.* at p. 3.) The promising practices relayed in the Letter were informed by the Orange County pilot project.

This bill requires CDSS to partner with CDCR and county jails to enroll otherwise eligible applicants who are ineligible because of their incarceration status for the CalFresh program to ensure that an applicant’s benefits may begin as soon as possible upon reentry of the applicant into the community from the state prison or a county jail. This bill also requires CDSS to require county eligibility workers to regularly access any state prison or county jail within the county to conduct interviews and to assist individuals within 90 days of release from state prison or county jail with completing applications for CalFresh benefits.

This bill additionally requires CDSS to partner with DHCS, on or before January 1, 2026, to create and test a Medi-Cal and CalFresh combined application for incarcerated individuals soon leaving incarceration.

This bill further requires CDSS, on or before February 1, 2026, to create a workgroup to create recommendations for a state reentry process incorporating all the necessary resources for transition from state prison or county jail to reentry into the community, and specifies the membership of the workgroup. The workgroup would be required to create and submit a report to CDSS and the Legislature outlining its recommendations by August 31, 2026 and for subsequent annual reports to be submitted by August 31.

Finally, this bill requires CDSS, on or before January 1, 2026, to seek a federal waiver to allow for pre-enrollment of applicants prior to their release from the state prison or a county jail, and to seek any other relevant federal waivers necessary to implement the provisions of the bill.

4. Argument in Support

According to Legal Services for Prisoners with Children, one of the bill's co-sponsors:

SB 1254 takes another huge step forward in ensuring that the reentry population is given the very best opportunities to successfully reintegrate into society. Though there is still much work to do to that end there are basic human needs that must be met to give people a fighting chance at successful reentry. One of those is basic human needs is access to food and to eliminate food insecurity as much as we possibly can.

As incarcerated populations prepare for release there are a myriad of things one has to prepare and plan for. Our state does an admirable job of providing a safety net with regards to giving access to food for those in need when it comes to the overall population. However, when reentering society from incarceration having to navigate the state and county benefits system can be daunting to say the least. Providing essential support to this population before they begin their journey of reintegration will go a long way toward ensuring that people's basic needs are met which allows them to focus their attention on the many other things that a returning citizen must prepare for.

The Supplemental Nutrition Assistance Program (SNAP)—called CalFresh in California—is the largest food assistance program in the nation. However, California has historically had a low ranking on the United State's Department of Agriculture's statewide ranking for eligible households to enroll and participate in food stamps, due in part to barriers to acquiring CalFresh for all applicants.

Under federal law, incarcerated individuals become ineligible to receive CalFresh benefits after 30 days of confinement. While there is already an existing re-entry process for Medi-Cal, there are no equivalent enrollment processes for CalFresh, and various other supportive services.

SB 1254 decreases barriers to re-entry, helps address issues of food insecurity in California, and builds upon existing work in connecting individuals with state services in an effective manner.

5. Argument in Opposition

The County Welfare Directors Association of California writes:

While CWDA agrees with the principle of reducing recidivism and ensuring that eligible individuals have access to benefits to which they are entitled, we identify significant problems created by the mandates in this bill.

First, counties are already working to implement the pre-release Medi-Cal application for incarcerated individuals mandated under the California Advancing and Innovating Medi-Cal (CalAIM) initiative. The Justice-Involved (JI) Initiative under CalAIM aims to ensure continuity of health care coverage and services between the time individuals are incarcerated and when they are released. Through the federally-approved JI initiative, individuals are eligible to receive

selected Medi-Cal services up to 90 days prior to their release and have their Medi-Cal application processed and approved while they are incarcerated for Medi-Cal eligibility after their release.

Pre-enrollment of incarcerated individuals into CalFresh would require a federal waiver, which this bill would require the California Department of Social Services to seek. However, until such a waiver application is submitted and approved, developing a joint Medi-Cal and CalFresh application and requiring county workers to pre-enroll incarcerated individuals into CalFresh is premature.

Even if needed federal CalFresh waivers had already been obtained, the timeline mandated in this bill for implementing both Medi-Cal and CalFresh pre-enrollment is not feasible. The process for Medi-Cal enrollment under the JI Initiative has taken years to establish and implement, requiring a significant investment of county human services agencies staff resources. ... CWDA request that implementation of the Medi-Cal pre-enrollment be completed before any additional mandates are made.

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