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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

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**Bill No:** SB 343                      **Hearing Date:** April 21, 2015  
**Author:** Hancock  
**Version:** April 9, 2015  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** LT

**Subject:** *Corrections: Inmates*

## HISTORY

**Source:** Service Employees International Union

**Prior Legislation:** SB 1391 (Hancock)—Ch.695 Stats. 2014

**Support:** Legal Services for Prisoners with Children; The California Public Defenders Association

**Opposition:** None known

## PURPOSE

*The purpose of this bill is to (1) require the Department of Corrections and Rehabilitation (CDCR) to give strong consideration to the use of libraries and librarians in effective literacy programs in prison; (2) include completion of a community college or four-year academic degree in the existing requirement that CDCR incentivize inmate participation in educational programming; and (3) authorize CDCR to allow certain inmates in segregated housing to earn good time credits for educational programming, as specified.*

*Existing law* provides that the Secretary of the Department of Corrections and Rehabilitation (“CDCR”) “shall implement in every state prison literacy programs that are designed to ensure that upon parole inmates are able to achieve the goals contained in this section....” (Penal Code § 2053.1.)

*Existing law* provides that CDCR shall prepare an implementation plan for this program, and shall request the necessary funds to implement this program as follows:

- (1) The department shall offer academic programming throughout an inmate’s incarceration that shall focus on increasing the reading ability of an inmate to at least a 9th grade level.
- (2) For an inmate reading at a 9th grade level or higher, the department shall focus on helping the inmate obtain a general education development certificate, or its equivalent, or a high school diploma.
- (3) The department shall offer college programs through voluntary education programs or their equivalent.

(4) While the department shall offer education to target populations, priority shall be given to those with a criminogenic need for education, those who have a need based on their educational achievement level, or other factors as determined by the department.

*Existing law* requires that “in complying with the requirements of this section, the department shall give strong consideration to computer-assisted training and other innovations that have proven to be effective in reducing illiteracy among disadvantaged adults.” (Penal Code § 2053.1.)

*This bill* would revise this provision to also reference the use of libraries and librarians.

*Existing law* provides a formula for each fiscal year to determine funds to support academic programs for inmates and specifies proportional increases and decreases in relation to median salaries for full-time high school teachers as of 1956-57. (Penal Code § 2054.1.)

*This bill* would repeal provisions from this section concerning the fiscal formula for supporting the academic education program for inmates, as specified.

*This bill* makes additional non-substantive revisions to this section.

*Existing law* provides that CDCR “shall determine and implement a system of incentives to increase inmate participation in, and completion of, academic and vocational education consistent with the inmate’s educational needs as identified in the assessment performed (as specified), including, but not limited to, a literacy level (as specified), a high school diploma or equivalent, or a particular vocational job skill.” (Penal Code § 2054.2.)

*This bill* would include the “completion of a community college or four year academic degree” in this provision.

*Existing law* generally provides that a person who is placed in segregated housing is ineligible to earn good time credits, as specified. (Penal Code § 2933.6.)

*This bill* would authorize CDCR “to allow specified inmates placed in a Security Housing Unit, Psychiatric Services Unit, Behavioral Management Unit, or an Administrative Segregation Unit to earn credits pursuant to Section 2933 or 2933.05, or credits as otherwise specified in regulation, during the time he or she is in the Security Housing Unit, Psychiatric Services Unit, Behavioral Management Unit, or the Administrative Segregation Unit. The regulations shall establish separate classifications of serious disciplinary infractions to determine the rate of to restoration of credits, the time period required before forfeited credits or a portion thereof may be restored, and the percentage of forfeited credits that may be restored for those time periods, not to exceed those percentages authorized for general population inmates. The regulations shall provide for credit earning for inmates who successfully complete specific program performance objectives.”

## RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as "of February 11, 2015, 112,993 inmates were housed in the State's 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity." (Defendants' February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

## COMMENTS

### 1. Stated Need for This Bill

The author states:

Libraries in the past have been seen as a legal resource for inmates who want to appeal their case. However libraries have evolved to a place where they provide literacy services to the inmate population. For example, they run programs to tape or video inmates reading children's stories that can be sent to their children. This allows inmates to start reading simple books and along the way teach them to read for themselves. The libraries provide resources that inmates can use upon their release and teach them how to use the library and their computers so that when they are released they can use public libraries to access services. This section encourages inmates who have already completed a GED or have a high school diploma to take higher education courses leading to an AA or four year degree by increasing the milestones that could be earned for higher education degree completion.

### 2. What This Bill Would Do

This bill would do the following with regard to inmate education:

- Authorize CDCR to develop regulations to allow certain inmates in segregated housing to earn good time credit through academic programming;
- Incentivize educational programming through community college or four-year academic degree programs, as specified; and
- Give strong consideration to libraries and librarians in CDCR's literacy programs.

### 3. Background—Importance of Prison Education

According to the executive summary of "Degrees of Freedom: Expanding College Opportunities for Incarcerated and Formerly Incarcerated Californians":

It is estimated that over 50,000 individuals will be released from California's prisons in the next two years, and thousands more will be released from county jails. Proposition 47, now being implemented throughout the state, may result in the release of thousands more. Without intervention, many of these individuals are likely to return to custody in a repeat cycle of incarceration. There is a way to stop this revolving door: a recent RAND study shows that participants in prison college programs have 51 percent lower odds of recidivating than those who do not participate and, after release, the odds of obtaining employment are higher for those who participated in education. It is time to take advantage of that knowledge by making high-quality college opportunities available for the state's currently and formerly incarcerated residents.

California is an innovative state, with the largest public higher education system in the nation. The state has 112 community colleges, the vast majority of which are located near a prison, jail or community with high concentrations of formerly incarcerated residents. These colleges enroll 74 percent of all undergraduate students in California. They are affordable gateways with existing support structures and experience in helping educationally disadvantaged students succeed.

Moreover, California has a history as a leader in correctional education. In 1979, in-person college courses were available in every prison in California. Nine of 19 California State University campuses provided on-ramp programs designed to support these students as they transitioned into the college environment, and 15 community colleges had programs that supported students with criminal histories on their campuses. Since then, the prison population in California has grown by more than 700%, but access to college inside prisons has not keep pace. In 1976, 8.6 percent of state prison inmates were enrolled in college courses, and by 2013 the number of inmate students enrolled in college had shrunk nearly in half to 4.4 percent. Not only has enrollment dropped, but quality has suffered as well. Statewide, in-prison college programs were decimated in the early 1990s and replaced with low-quality correspondence-based distance education.<sup>1</sup>

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<sup>1</sup> Mukamal, Debbie, Rebecca Silbert, and Rebecca Taylor. "Degrees of Freedom: Expanding College Opportunities for Incarcerated and Formerly Incarcerated Californians." Stanford Law School; Berkeley Law, Feb. 2015. Web.