
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 795 **Hearing Date:** April 28, 2015
Author: Committee on Public Safety
Version: March 10, 2015
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Public Safety Omnibus*

HISTORY

Source: Various

Prior Legislation: SB 1461 (SCoPS)
SB 514 (Committee on Public Safety) – Ch. 59, Stats. 2013
SB 1144 (Strickland) – Ch. 867, Stats. 2012
SB 428 (Strickland) – Ch. 304, Stats. 2011
SB 1062 (Strickland) – Ch. 708, Stats. 2010
SB 174 (Strickland) – Ch. 35, Stats. 2009
SB 1241 (Margett) – Ch. 699, Stats. 2008
SB 425 (Margett) – Ch. 302, Stats. 2007
SB 1422 (Margett) – Ch. 901, Stats. 2006
SB 1107 (Committee on Public Safety) – Ch. 279, Stats. 2005
SB 1796 (Committee on Public Safety) – Ch. 405, Stats. 2004
SB 851 (Committee on Public Safety) – Ch. 468, Stats. 2003
SB 1852 (Committee on Public Safety) – Ch. 545, Stats. 2002
SB 485 (Committee on Public Safety) – Ch. 473, Stats. 2001
SB 832 (Committee on Public Safety) – Ch. 853, Stats. 1999
SB 1880 (Committee on Public Safety) – Ch. 606, Stats. 1998

Support: Unknown

Opposition: None known

PURPOSE

The purpose of this bill is to make technical and corrective changes to various code sections relating generally to criminal justice laws, as specified.

Existing law provides that when a person is arrested without a warrant, the person must be taken before the nearest accessible magistrate with certain exceptions. (Penal Code § 849)

This bill adds an exception for a person arrested for a DUI that needs to be taken for medical treatment first.

Existing law provides that when a person is arrested and taken into custody, that person may be subjected to patdown searches, metal detector searches and thorough clothing searches in order to discover and retrieve concealed weapons and contraband substance prior to being placed in a booking cell. (Penal Code § 4030)

This bill would also allow the use of body scanners when a person is taken into custody.

Existing law, the Interstate Compact for Juveniles, which sunsets on January 1, 2016, establishes an interstate commission of the compacting states to, among other things, oversee, supervise, and coordinate the interstate movement of juveniles.

This bill deletes the sunset.

This bill makes additional technical changes.

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. Purpose of This Bill

This is the annual omnibus bill. In past years, the omnibus bill has been introduced by all members of the Committee on Public Safety. This bill is similar to the ones introduced as Committee bills in the past in that it has been introduced with the following understanding:

- The bill's provisions make only technical or minor changes to the law; and
- There is no opposition by any member of the Legislature or recognized group to the proposal.

This procedure has allowed for introduction of fewer minor bills and has saved the Legislature time and expense over the years.

2. A Person Arrested for DUI Needing Medical Attention

This amendment to Section 849 of the Penal Code (PC) seeks to clarify existing language relating to the release of a person arrested for driving under the influence (DUI) who is injured and requires medical attention.

This amendment would help provide law enforcement officials with clarification of release from custody procedures in situations where a DUI arrestee cannot be booked into jail due to their need for medical attention.

A common occurrence patrol officers experience is when a DUI driver is involved in a traffic collision and requires some type of medical attention. The provisions of Section 849 PC often confuse officers who desire to release a driver lawfully arrested for DUI to the care of the hospital. While the intent of Section 849 PC is to allow the release of an arrestee in this situation, the current statutory language causes confusion.

3. Use of Body Scanners When a Person is Taken Into Custody

There is some concern that although airport-type screenings are permitted for bookings, including authorizing the use of metal detectors and pat down searches, there is no explicit authorization for body scanners. This amendment will authorize the use of body scanners for

bookings, the use of which, arguably, is less intrusive than strip searches and visual body cavity searches.

4. Removal of Sunset on the Interstate Compact for Juveniles

Chapter 4 of the WIC, which includes §1400-1403, codifies the terms, requirements and responsibilities of the Interstate Compact for Juveniles (ICJ), which was adopted into California law by Assembly Bill (AB) 1053 (Solorio) (Chapter 268, Statutes of 2009). When originally enacted, this section also included a sunset which stated that the chapter would only be in effect until January 1, 2012, pending various actions. Since the enactment of the legislation in 2012, the sunset has been extended twice, to 2014 and again to 2016. As many of the requirements of AB 1053 have been met or are in the process of being fulfilled, the sunset is no longer necessary. This proposal would remove the sunset from this section, thereby ensuring California's permanent membership in this national compact.

5. Technical Changes

This bill makes other technical changes.

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