



CALIFORNIA PROBATION, PAROLE AND CORRECTIONAL ASSOCIATION

To: All CPPCA Members

From: Nick Warner, Legislative Director
Danielle Higgs, Legislative Representative
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Date: September 6, 2011

Re: Proposed Realignment Legislative Changes

Below is a list of items that we have been briefed will be part of legislative clean-up relative to realignment. The AB 109 policy changes will be introduced as SB 5x or AB 17x and the AB 118 fiscal changes will be introduced in SB 4x or AB 16x. Budget Committees will hold hearings on these bills this week.

The only changes in SB 4x or AB 16x that may stand out to you is the reference to YOBG. It is technical in nature but it is fixing the scenario in AB 118 where they inadvertently left a general fund appropriation in statute even though that program was put into realignment, essentially paying out twice. The double payment will be removed for next year.

Changes to Sentencing and N³ provisions from AB 109 and AB 117

- Several technical sentencing fixes to ensure the original intent is clarified (like definitions for felony)
- Clarifies that a one year prison prior is available to persons sentenced to county jail under PC 1170(h)
- Clarifies the “split” sentence option in PC 1170(h)

~~(5) A judge, when imposing a sentence pursuant to paragraph (1), may order the defendant to serve a term in a county jail for a period not to exceed the maximum possible term of confinement or may impose a sentence which includes a period of county jail time and a period of mandatory probation not to exceed the maximum possible sentence.~~ The court, when imposing a sentence pursuant to paragraphs (1) and (2) of this subdivision, may commit the defendant to county jail as follows:

- For the full term as determined in accordance with the applicable sentencing law; or
- For a term as determined in accordance with the applicable sentencing law, but suspend execution of a concluding portion of the term selected in the court’s discretion, during which time the defendant shall be supervised by the county probation officer in accordance with the terms, conditions and procedures generally applicable to persons placed on probation, for the remaining un served portion of the sentence imposed by the court. The period of supervision shall be mandatory, and may not be earlier terminated except by court order. During the period when the defendant is under such supervision, unless in actual custody related to the sentence imposed by the court, the defendant shall be entitled to only actual time credit against the term of imprisonment imposed by the court.

- Clarifies that prior out-of-state convictions and juvenile adjudications count as serious and violent

- Clarifies that sentence enhancements can apply to N³ and state the supervision provisions generally applicable to probation shall apply

PRCS and Parolees

- For parolees, six month clean time results in a discharge but this does not apply to serious/violent/sex offender parolees
- If a person qualifies for longer parole tail than 3 years (some sex offenses and murders) who would potentially qualify as a PRCS, will instead go onto state parole.
- Specifies if PRCS refuses to sign their terms and conditions at the state institution, CDCR will hold them until their credits are exhausted (just as they do with parolees)
- Specifies search conditions apply to PRCS by adding that as a term to the general conditions they sign prior to release.
- Prohibits the release of a PRCS by CDCR on a holiday or weekend
- Clarifies that counties may contract for mental health services for PRCS's with CDCR (correctional clinical services)
- Explicitly authorizes electronic monitoring as a condition of PRCS
- Clarifies by adding to the terms and conditions signed by PRCS, they are subject to arrest without a warrant for the violation of any of the terms and conditions
- Establishes a process to issue warrants for PRCS by the supervising entity and outlines the court process (PC 3455)
- Tolls the PRCS period for absconders
- Specifies that in order to discharge after six months clean time means no violation resulting in a custodial sanction (flash or revocation)
- Adds an administrative process to provide for transfers of PRCS between counties when there is a change in legal residence
 - (a) Whenever a supervising agency determines that a person subject to postrelease supervision pursuant to this chapter no longer permanently resides within its jurisdiction, and such change in residence was either approved by the supervising agency or did not violate the terms and conditions of postrelease supervision, the supervising agency shall transmit, within two weeks, the prison release packet to the designated supervising agency in the county in which the person permanently resides.
 - (b) Upon verification of permanent residency, the receiving supervising agency shall accept jurisdiction and supervision of the person on postrelease supervision.
 - (c) For purposes of this section, residence means the place where the person customarily lives exclusive of employment, school, or other special or temporary purpose. A person may have only one residence.
- Clarifies that jails are where the PRCS spend any custody violations

Credits

- Removes county sheriffs from the CDCR credits and appeals process for offender behavior that was inadvertently changed previously

- Clarifies the credits for pre-sentenced inmates going to state prison – PC 4019 credits - apply
- Clarifies that day for day credits (PC 4019) for all county jail sentences (PC 1170(h))
- Specifies that no credits apply to flash incarceration
- Specifies 2 for 1 credits for county fire camps (similar to the credits received by state fire camp inmates)

PRCS and Parolee Changes when pending or serving a revocation on October 1st

- Delays transfers of persons who would be eligible for PRCS until November 1st.
- Specifies that all persons pending revocation prior to Oct. 1 will be eligible for 1 year revocation period and therefore not subject to the 180 cap (PC 3000.09.)

Parolees in County Jail on October 1st

- If a parolee is on a parole hold or serving a parole violation starting prior to October 1st and is being released directly from a county jail on or after October 1st, they stay on parole upon release (*Policy rationale: this does not fit the PRCS process developed by CDCR and locals so it could be a hazard to try and hand these offenders off to local supervision*)
- If a parolee is in jail prior to October 1st and receives a revocation period for more than 60 days, CDCR will transport to prison to serve their revocation. If they meet the eligibility requirements of a PRCS they will be released to community supervision after November 1st. (*Policy Rationale: If it is a longer revocation period, CDCR has time to process a PRCS packet to give to the counties if the person is eligible, if not eligible they will be released onto parole. This is a new population that we had not anticipated but will go disappear once the new revocation process is put in place and the current holds are dispensed with.*)
- If a parolee is serving a parole revocation prior to October 1st in CDCR who is scheduled to be released from CDCR prior to November 1st, they will go onto parole supervision even if they are PRCS eligible. After November 1st if that parole violator meets the eligibility requirements for PRCS, they will be released to community supervision. (*Policy Rationale: CDCR agreed to keep these parole violators on parole if they are released prior to November 1st because there was not enough time to produce PRCS packets. This is a policy and fiscal benefit to counties because these are numbers built into our allocations already and will not change based on this policy*)

Other Changes

- Adds that escaping from state prison or gassing a state correctional officer is punishable by state prison
- Establishes distribution of the public defender funds in counties where no public defender office exists
- Makes possession of concealed firearm by felon punishable in state prison (H&S 12025(b)(4)).
- Conforms drug statutes for punishment pursuant to section 1170(h). (H&S 11355 & 11382)