

Prison and Jail Realignment under California's Assembly Bill (AB) 109

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1. What is Prison and Jail Realignment?

It allows people charged with non-violent, non-serious, and non-sex crimes to serve their sentence in county jails instead of state prisons. Counties also have the authority to develop community-based alternatives to jail. In addition, counties may supervise certain individuals upon release from state prison. ¹

2. What is Assembly Bill (AB) 109?

It is the state legislation that created prison and jail realignment. In 2011, the Governor signed the bill, which sought to reduce prison overcrowding, costs and recidivism.

3. Does AB 109 affect people with mental health conditions?

Yes. The CDCR has estimated that 23.1% of inmates are “mentally ill.”² In addition, 2009 data found that 33% of people in California jails “have open

¹ For more information, see California Department of Corrections and Rehabilitation (CDCR), “2011 Public Safety Realignment” fact sheet (12/19/13), available at <http://www.cdcr.ca.gov/realignment/docs/realignment-fact-sheet.pdf>.

² See Ashly Nikkole Davis, “The Effect of Realignment on Mentally Ill Offenders (March 2012), p. 16, available at http://www.law.stanford.edu/sites/default/files/child-page/183091/doc/slspublic/Davis_AB109_And_Mentally_Ill_Offenders.pdf

mental health case.”³ As a result, more people with mental health disabilities may be served in jails than in prisons. There were over two thousand offenders with mental health challenges who were released from state prisons to county Post Release Community Supervision (PRCS) in June 2012.⁴

4. Is there a process so counties are equipped to serve people?

Yes. There is a local planning process. It is called the Community Corrections Partnership (CCP).⁵ Each county has a CCP to develop an implementation plan. The Executive Committee includes a representative from the County Department of Social Services, Mental Health, or Alcohol and Substance Abuse Programs, as appointed by the Board of Supervisors. The county plans can vary in the amount of funding and resources they dedicate to mental health services. Many of the county plans did not go into depth as to what mental health services would be available. Counties found to have the deepest discussion on mental health services were: Humboldt, Kern, Madera, and Plumas.⁶

5. What are some of the identified needs?

- a. People must have adequate mental health care in prison and jail;⁷

³ *Id.*

⁴ Over 80% of these individuals were in the General Population level. Less than 2% were in the Enhanced Outpatient Program (EOP) level. See Statewide Mental Health PRCS Program Dashboard (June 2012) available at: [http://www.cmhda.org/go/portals/0/cmhda%20files/committees/forensics/1207_forensics/prcs_june_2012_dashboard_\(7-23-12\).pdf](http://www.cmhda.org/go/portals/0/cmhda%20files/committees/forensics/1207_forensics/prcs_june_2012_dashboard_(7-23-12).pdf)

⁵ Penal Code § 1230; see also CDCR, “2011 Public Safety Realignment” fact sheet (12/19/13), at footnote 1 above.

⁶ See McCray, A., McCann Newhall, K., Greenlick Snyder, J., “Comparison of County AB 109 Implementation Plans,” (Draft for Comments January 2012) available at: http://www.law.stanford.edu/sites/default/files/child-page/183091/doc/slspublic/Realigning_the_Revolving_Door.pdf

⁷ See DRC fact sheet, “Your Constitutional Right to Adequate Mental Health Care in Jails or Prisons”, available at: <http://www.disabilityrightsca.org/pubs/CM2801.pdf>

- b. Partnerships between local corrections, departments of mental or behavioral health, courts, probation officers, and criminal practitioners are needed;⁸
- c. Coordination of care during facility discharge and community re-entry is essential;⁹
- d. Mental health courts may foster interagency relationships, reduce recidivism, and provide consistent oversight for people with co-occurring disorders;¹⁰
- e. Mental health courts can potentially divert people from the criminal justice system;¹¹ and
- f. An effective spectrum of care must meet individual needs.¹²

6. Are there funds to available to provide mental health services?

Yes, there are funds that can be used to serve people with mental health needs under realignment. AB 109 provides funding through Vehicle License Fees and State Sales Tax revenues. According to CDRC, “\$400 million was provided to counties in in the first partial fiscal year of Realignment, growing to more than \$850 million last year and more than \$1 billion in 2013-2014.”¹³

In addition, the Mental Health Services Act (MHSA) mandates that counties “consider ways to provide services similar to those established pursuant to the Mentally Ill Offender Crime Reduction Grant Program. Funds shall not be used to

⁸ See Ashly Nikkole Davis, “The Effect of Realignment on Mentally Ill Offenders (March 2012), p. 22, at footnote 2 above.

⁹ *Id.* at 22-23

¹⁰ *Id.* at 24.

¹¹ *Id.*

¹² *Id.* at 27; see also SAMHSA, “A Checklist for Implementing Evidence-Based Practices and Programs Justice-Involved Adults with Behavioral Health Disorders,” available at: <http://gainscenter.samhsa.gov/cms-assets/documents/73659-994452.ebpchecklistfinal.pdf>

¹³ See CDCR, “2011 Public Safety Realignment” fact sheet (12/19/13), at footnote 1 above.

pay for persons incarcerated in state prison or parolees from state prisons.”¹⁴ It specifies that MHSA funds not be used to pay for persons incarcerated in state prison or parolees from state prisons.¹⁵ However, “[t]he county may use MHSA funds for programs/services provided in juvenile halls and/or county jails only for the purpose of facilitating discharge.”¹⁶

Further, Senator Steinberg recently announced a proposal to resume the Mentally Ill Offender Crime Reduction Grant (MIOCRG) program. See http://www.mhsoac.ca.gov/MHSA/Publications/docs/PressReleases/2013/PR_SteinbergAnnouncesOffenderReductionProgram_121913.pdf

7. Can stakeholders get involved to make sure needs are met?

Yes. People can follow or join local planning processes such as the following:

- a. Local Mental Health Board or Commission;
- b. Local MHSA Planning Processes;
- c. County Community Corrections Partnership; or
- d. County Board of Supervisors.

¹⁴ See Welf. & Inst. Code § 5813.5(f); see also HomeBase / Legal and Technical Services Advancing Solutions to Homelessness, “Drafting California’s Ten-Year Chronic Homelessness Action Plan, Resource Binder: Discharge & Transition Planning” (June 21-23, 2006).

¹⁵ 9 C.C.R. § 3610(f).

¹⁶ 9 C.C.R. § 3610(g).

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English version: <http://fs12.formsite.com/disabilityrightsca/form54/index.html>

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The California Mental Health Services Authority (CalMHSA) is an organization of county governments working to improve mental health outcomes for individuals, families and communities. Prevention and Early Intervention programs implemented by CalMHSA are funded by counties through the voter-approved Mental Health Services Act (Prop 63). Prop. 63 provides the funding and framework needed to expand mental health services to previously underserved populations and all of California's diverse communities.



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