

AMENDED IN SENATE APRIL 22, 2013

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SENATE BILL

No. 144

Introduced by Senator Cannella

(Coauthors: Senators Anderson, Berryhill, Fuller, Gaines, and Galgiani)

(Coauthors: Assembly Members *Allen, Conway, Beth Gaines, Harkey, Jones, Linder, Logue, Morrell, Nestande, Patterson* and, *Perea, and Wilk*)

January 30, 2013

An act to add Chapter 6.4 (commencing with Section 30030) to Division 3 of Title 3 of the Government Code, relating to criminal justice realignment, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 144, as amended, Cannella. 2013 Realignment Legislation addressing justice reinvestment.

(1) Existing law, the 2011 Realignment Legislation addressing public safety and related statutes, requires that certain specified felonies be punished by a term of imprisonment in a county jail for 16 months, or 2 or 3 years, and provides for postrelease community supervision by county officials for persons convicted of certain specified felonies upon release from prison or county jail. As part of the realignment of public safety services to local agencies, existing law establishes the Local Revenue Fund 2011 into which specified tax revenues are deposited and are continuously appropriated for the provision of public safety services, as defined.

This bill, the 2013 Realignment Legislation addressing justice reinvestment, would establish the Realignment Reinvestment Fund in

the State Treasury as a continuously appropriated fund. The bill would require the Director of Finance, in consultation with the Legislative Analyst, to annually calculate the net savings to the state for the prior fiscal year and an estimate of the net current fiscal year savings resulting from the 2011 Realignment Legislation addressing public safety, as specified. The bill would require the Controller to transfer \$819,857,000 from the General Fund to the Realignment Reinvestment Fund for the 2013–14 fiscal year, thereby making an appropriation. The bill would, beginning in the 2014–15 fiscal year, and each fiscal year thereafter, require the Controller to transfer an amount equal to the estimate of net current fiscal year savings resulting from the 2011 Realignment Legislation addressing public safety, adjusted by the difference between the preceding year's estimate and the calculated prior fiscal year net savings, thereby making an appropriation.

The bill would require the Controller to annually allocate moneys in the Realignment Reinvestment Fund, no later than September 1 of each year, to each county for deposit in the county's Realignment Reinvestment Services Account proportionally, based on the average daily population of realigned offenders under each county's supervision for the preceding fiscal year. The bill would require the Controller to consult with the Board of State and Community Corrections to determine the average daily population for each county.

The bill would require a Realignment Reinvestment Services Account to be established in each county treasury. The bill would require the moneys to implement a comprehensive, locally run, supplemental community-based corrections plan, as specified. The bill would require the supplemental community-based corrections plan to be developed by each county's local Community Corrections Partnership and to be voted on by an executive committee of each county's Community Corrections Partnership, as specified. The bill would deem the supplemental community-based corrections plan accepted by the county board of supervisors unless the board rejects the plan by a $\frac{4}{5}$ vote. The bill would require each county or city and county to annually report to the county board of supervisors and the Board of State and Community Corrections on the programs funded pursuant to these provisions, as specified. By imposing additional duties on local officials, this bill would impose a state-mandated local program.

The bill would require the Director of Finance, in consultation with the Legislative Analyst, to develop a yearly estimate of the cost avoidances expected to be realized by the Department of Corrections

and Rehabilitation that are a result of the 2011 Realignment ~~Legislature~~ *Legislation*, and would require the director to report those estimates to the Legislature, as provided.

The bill would require that moneys allocated from a Realignment Reinvestment Services Account be expended exclusively for purposes of the bill’s provisions. The bill would require that funds received pursuant to its provisions be expended or encumbered no later than June 30 the following year, and would require unspent moneys to be remitted for deposit in the Realignment Reinvestment Fund.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 2013 Realignment Legislation addressing justice reinvestment.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) The Legislature is committed to reducing recidivism among
- 5 criminal offenders, ensuring that local governments have adequate
- 6 funding to achieve this goal, and facilitating the responsible
- 7 implementation of the criminal justice ~~polices~~ *policies* contained
- 8 in the 2011 Realignment Legislation addressing public safety.
- 9 (b) California must continue to reinvest its criminal justice
- 10 resources to support community-based corrections programs,
- 11 evidence-based practices, and local correctional facilities in order
- 12 to achieve improved public safety returns on this state’s substantial
- 13 investment in its criminal justice system.
- 14 (c) Realigning low-level felony offenders who do not have prior
- 15 convictions for serious, violent, or sex offenses to locally run,
- 16 community-based corrections programs, which are strengthened
- 17 through community-based punishment, evidence-based practices,
- 18 improved supervision strategies, and enhanced secured capacity,
- 19 has the potential to improve public safety outcomes for adult felons

1 and facilitate their reintegration back into society. However, local
 2 governments have indicated that current resources provided by the
 3 state to achieve these goals are inadequate. This lack of resources
 4 has resulted in an increase in criminal activity throughout the state
 5 that indicates that realignment is failing to achieve its stated goals.
 6 As a result, community-based corrections programs require
 7 additional funding to meet the level of need and provide an
 8 appropriate level of service for offender populations shifted as a
 9 result of the 2011 Realignment Legislation addressing public
 10 safety.

11 (d) By enacting the 2011 Realignment Legislation addressing
 12 public safety, the Legislature affirmed its commitment to justice
 13 reinvestment and stated that the purpose of justice reinvestment
 14 is to manage and allocate criminal justice populations more cost
 15 effectively, generating savings that can be reinvested in
 16 evidence-based strategies that increase public safety while holding
 17 offenders accountable.

18 (e) In order to properly implement the 2011 Realignment
 19 Legislation addressing public safety, it is the intent of the
 20 Legislature to fully commit to justice reinvestment by using
 21 identified state savings generated by the 2011 Realignment
 22 Legislation addressing public safety and any other necessary funds
 23 to provide local governments with maximum flexibility and
 24 adequate funding to manage these new offenders in the manner
 25 that is in the best interest of public safety, most appropriate to each
 26 county, and consistent with principles of justice reinvestment.

27 SEC. 3. Chapter 6.4 (commencing with Section 30030) is added
 28 to Division 3 of Title 3 of the Government Code, to read:

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 30
 31

CHAPTER 6.4. REALIGNMENT REINVESTMENT FUND

32 30030. For purposes of this chapter, “realigned offenders”
 33 means offenders sentenced to a county jail or to mandatory
 34 supervision, or to both county jail and mandatory supervision,
 35 pursuant to subdivision (h) of Section 1170 of the Penal Code,
 36 offenders subject to postrelease community supervision pursuant
 37 to Title 2.05 (commencing with Section 3450) of Part 3 of the
 38 Penal Code, and any other offenders under county supervision
 39 whose supervision would have been the responsibility of the state

1 if the 2011 Realignment Legislation addressing public safety had
2 not been enacted.

3 30031. (a) (1) The Realignment Reinvestment Fund is hereby
4 established in the State Treasury. Moneys in the fund are
5 continuously appropriated and shall be used exclusively for the
6 purposes of this chapter.

7 (2) (A) Beginning in 2014, on or after July 1, and no later than
8 August 31 of each year, the Director of Finance shall, in
9 consultation with the Legislative Analyst, annually calculate both
10 of the following:

11 (i) The actual net savings to the state for the immediately
12 preceding fiscal year resulting from the 2011 Realignment
13 Legislation addressing public safety.

14 (ii) An estimate of the net savings to the state for the current
15 fiscal year resulting from the 2011 Realignment Legislation
16 addressing public safety.

17 (B) Provided there are savings, the calculations shall be made
18 for each fiscal year by subtracting the amount calculated pursuant
19 to subparagraph (D) from the amount calculated pursuant to
20 subparagraph (C) for each fiscal year.

21 (C) (i) For the calculation pursuant to clause (i) of subparagraph
22 (A), the sum of all expenditure reductions, less cost increases,
23 affecting the Department of Corrections and Rehabilitation in the
24 fiscal year for which the calculation is being made that are a result
25 of the 2011 Realignment Legislation addressing public safety.

26 (ii) For the calculation pursuant to clause (ii) of subparagraph
27 (A), the projected sum of all expenditure reductions, less cost
28 increases, affecting the Department of Corrections and
29 Rehabilitation in the fiscal year for which the calculation is being
30 made that are a result of the 2011 Realignment Legislation
31 addressing public safety.

32 (D) (i) For the calculation pursuant to clause (i) of subparagraph
33 (A), the sum of the allocations made from the Community
34 Corrections Subaccount, the Community Corrections Growth
35 Special Account, the District Attorney and Public Defender
36 Subaccount, and the District Attorney and Public Defender Growth
37 Special Account in the fiscal year for which the calculation is being
38 made, less four hundred fifty-three million dollars (\$453,000,000).

39 (ii) For the calculation pursuant to clause (ii) of subparagraph
40 (A), the sum of the allocations projected to be made from the

1 Community Corrections Subaccount, the Community Corrections
2 Growth Special Account, the District Attorney and Public Defender
3 Subaccount, and the District Attorney and Public Defender Growth
4 Special Account in the fiscal year for which the calculation is being
5 made, less four hundred fifty-three million dollars (\$453,000,000).

6 (3) For the 2013–14 fiscal year, the Controller shall transfer
7 eight hundred nineteen million eight hundred fifty-seven thousand
8 dollars (\$819,857,000) from the General Fund to the Realignment
9 Reinvestment Fund for allocation pursuant to paragraph (5).

10 (4) Beginning with the 2014–15 fiscal year, and each fiscal year
11 thereafter, the Controller shall transfer an amount equal to the
12 difference between the amount identified in subparagraph (A) and
13 the amount identified in subparagraph (B) from the General Fund
14 to the Realignment Reinvestment Fund for allocation pursuant to
15 paragraph (5).

16 (A) The estimate of net savings for the current fiscal year
17 calculated pursuant to clause (ii) of subparagraph (A) of paragraph
18 (2).

19 (B) An adjustment for the immediately preceding fiscal year
20 that is the result of subtracting the amount calculated pursuant to
21 clause (i) of subparagraph (A) of paragraph (2) for that fiscal year
22 from the amount estimated pursuant to clause (ii) of subparagraph
23 (A) of paragraph (2) for that fiscal year.

24 (5) The Controller shall annually allocate moneys in the
25 Realignment Reinvestment Fund, no later than September 1 of
26 each year, to each county and city and county, for deposit in the
27 county's or city and county's Realignment Reinvestment Services
28 Account proportionally, based on the average daily population of
29 realigned offenders under each county's supervision for the
30 preceding fiscal year. The Controller shall consult with the Board
31 of State and Community Corrections to determine the average
32 daily population for each county.

33 (b) There shall be established in each county or city and county
34 treasury a Realignment Reinvestment Services Account to receive
35 all amounts allocated to a county or city and county for purposes
36 of implementing this chapter.

37 (c) (1) Each county local Community Corrections Partnership
38 established pursuant to subdivision (b) of Section 1230 of the Penal
39 Code shall recommend a comprehensive, locally run supplemental
40 community-based corrections plan to the county board of

1 supervisors. The purpose of the plan shall be to improve the
2 outcomes of the 2011 Realignment Legislation addressing public
3 safety. The plan may include, but shall not be limited to, mental
4 health programs, substance abuse programs, transitional housing
5 programs, job placement programs, improved supervision
6 strategies, community-based punishment programs, increased law
7 enforcement staffing in cities and counties, county jail construction,
8 maintenance, and operation, assessment and criminal prosecution
9 of realigned offenders, and supervision or aftercare for offenders
10 sentenced pursuant to subdivision (h) of Section 1170 of the Penal
11 Code and offenders subject to postrelease community supervision
12 pursuant to Section 3451 of the Penal Code.

13 (A) The supplemental community-based corrections plan may
14 include, but shall not be limited to, all of the following components:

15 (i) An assessment of existing law enforcement, probation,
16 education, mental health, health, social services, drug and alcohol,
17 and other services that specifically target realigned offenders, and
18 their families.

19 (ii) An identification and prioritization of the neighborhoods
20 and other areas in the community that face a significant public
21 safety risk from realigned offenders and associated crimes,
22 including, but not limited to, gang activity, burglary, robbery,
23 vandalism, controlled substances sales, firearm-related violence,
24 and substance abuse.

25 (iii) A local action strategy that provides for a continuum of
26 responses to crime and demonstrates a collaborative and integrated
27 approach for implementing a system of swift, certain, and
28 graduated responses for realigned offenders.

29 (iv) A schedule of programs identified in clause (iii) that are
30 proposed to be funded pursuant to this subparagraph, including
31 the projected amount of funding for each program.

32 (v) An accounting of the number of new crimes or violations
33 committed by realigned offenders.

34 (vi) An evaluation of existing services and any gaps that may
35 exist in those services.

36 (B) Programs proposed to be funded shall satisfy all of the
37 following requirements:

38 (i) Be based on evidence-based programs and approaches that
39 have been demonstrated to be effective in reducing crime, or

1 programs that improve public safety through incapacitation,
2 prosecution, or treatment of realigned offenders.

3 (ii) Employ information sharing systems to ensure that county
4 and city actions are fully coordinated and designed to provide data
5 for measuring the success of programs and strategies.

6 (C) The plan shall also identify the specific objectives of the
7 programs proposed for funding and specified outcome measures
8 to determine the effectiveness of the programs and contain an
9 accounting for all program participants, including those who do
10 not complete the programs. Outcome measures of the programs
11 proposed to be funded shall include, but not be limited to, all of
12 the following when that data is available and relevant to the
13 program:

14 (i) The rate of arrests per 100,000 population.

15 (ii) The rate of successful completion of probation and
16 postrelease community supervision.

17 (iii) The rate of successful completion of restitution and
18 court-ordered community service responsibilities.

19 (iv) Arrest, incarceration, and probation violation rates of
20 realigned offenders and other program participants.

21 (v) Quantification of the annual per capita costs of the program.

22 (D) To assess the effectiveness of programs funded pursuant to
23 this paragraph using the program outcome criteria specified in
24 subparagraph (C), the following periodic reports shall be submitted:

25 (i) Each county or city and county shall report, beginning
26 October 15, 2015, and annually each October 15 thereafter, to the
27 county board of supervisors and the Board of State and Community
28 Corrections, in a format specified by the board, on the programs
29 funded pursuant to this chapter and program outcomes as specified
30 in subparagraph (C).

31 (ii) The Board of State and Community Corrections shall
32 compile the local reports and, by March 15, 2015, and by March
33 15 of each year thereafter, make a report to the Governor and the
34 Legislature on program expenditures within each county and city
35 and county funded pursuant to this section and on the outcomes
36 as specified in subparagraph (C). A report submitted pursuant to
37 this clause shall be submitted in compliance with Section 9795 of
38 the Government Code.

39 (2) The supplemental community-based corrections plan shall
40 be voted on by an executive committee of each county's

1 Community Corrections Partnership consisting of the chief
2 probation officer of the county as chair, a chief of police, the
3 sheriff, the District Attorney, the Public Defender, the presiding
4 judge of the superior court, or his or her designee, and one
5 department representative listed in either subparagraph (G), (H),
6 or (J) of paragraph (2) of subdivision (b) of Section 1230 of the
7 Penal Code, as designated by the county board of supervisors for
8 purposes related to the development and presentation of the plan.

9 (3) If a supplemental community-based corrections plan has
10 been previously approved by a county's or city and county's local
11 Community Corrections Partnership, the plan shall be reviewed
12 annually and modified as needed.

13 (4) The supplemental community-based corrections plan or
14 modified supplemental community-based corrections plan shall
15 be deemed accepted by the county board of supervisors unless the
16 board rejects the plan by a vote of four-fifths of the board, in which
17 case the plan shall go back to the Community Corrections
18 Partnership for further consideration.

19 (5) The supplemental community-based corrections plan or
20 modified supplemental community-based corrections plan shall
21 be submitted to the Board of State and Community Corrections
22 no later than October 15 of each year.

23 (d) The Controller shall allocate funds to local jurisdictions for
24 public safety in accordance with this section as described in
25 subdivision (a).

26 (e) Funds allocated pursuant to subdivision (c) shall be expended
27 or encumbered in accordance with this chapter no later than June
28 30 of the following fiscal year. A local agency that has not met
29 the requirement of this subdivision shall remit the unspent moneys
30 in the Realignment Reinvestment Services Account to the
31 Controller for deposit in the Realignment Reinvestment Fund.

32 (f) Beginning in 2014, and no later than May 1 of each year,
33 the Director of Finance shall, in consultation with the Legislative
34 Analyst, develop an estimate of the cost avoidances expected to
35 be realized by the Department of Corrections and Rehabilitation
36 in the current fiscal year that are a result of the 2011 Realignment
37 Legislation addressing public safety and report those estimates to
38 the chairpersons of the committees in each house of the Legislature
39 that consider appropriations and to the Chairperson of the Joint
40 Legislative Budget Committee. A report submitted pursuant to

1 this subdivision shall be submitted in compliance with Section
2 9795 of the Government Code. The Legislature may consider each
3 year whether to appropriate funds in augmentation of the moneys
4 otherwise allocated pursuant to this chapter in an amount up to
5 and including the amount of cost avoidances reported pursuant to
6 this subdivision.

7 30032. (a) Moneys allocated from a Realignment Reinvestment
8 Services Account to a recipient entity shall be expended exclusively
9 for services included in the county's or city and county's
10 supplemental community-based corrections plan. These moneys
11 shall supplement existing services, and shall not be used to supplant
12 any existing funding for law enforcement services or programs or
13 activities included in the supplemental community-based
14 corrections plan provided by that entity.

15 (b) In no event shall any moneys allocated from the county's
16 or city and county's Realignment Reinvestment Services Account
17 be expended by a recipient entity to fund any of the following:

18 (1) Administrative overhead costs in excess of 1 percent of a
19 recipient entity's Realignment Reinvestment Services Account
20 allocation for that fiscal year.

21 (2) The costs of any capital project or construction project that
22 does not directly support programs or activities included in the
23 supplemental community-based corrections plan.

24 (c) For purposes of this section, both of the following shall
25 apply:

26 (1) A "recipient entity" is that entity that actually incurs the
27 expenditures of Realignment Reinvestment Services Account funds
28 allocated pursuant to subdivision (c) of Section 30301.

29 (2) Administrative overhead costs shall only be charged by the
30 recipient entity, as defined in paragraph (1), up to 1 percent of its
31 Realignment Reinvestment Services Account allocation.

32 30033. The moneys in the Realignment Reinvestment Services
33 Account established pursuant to subdivision (b) of Section 30031
34 in each county or city and county shall be expended exclusively
35 as required by this chapter. Moneys allocated from the account
36 shall not be transferred to, or commingled with, the moneys in any
37 other fund in the county or city and county treasury, except that
38 moneys may be transferred from the account to the county's or
39 city and county's general fund to the extent necessary to facilitate

1 the appropriation and expenditure of those transferred moneys in
2 the manner required by this chapter.

3 SEC. 4. If the Commission on State Mandates determines that
4 this act contains costs mandated by the state, reimbursement to
5 local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

O