

APRIL 19, 2021

Resentencing, Diversion, and Reentry Programs

PRESENTED TO: Assembly Budget Subcommittee No. 5
On Public Safety
Hon. Cristina Garcia, Chair



LEGISLATIVE ANALYST'S OFFICE

Overview

- This handout provides an overview of selected recent state policy changes and funding that support:
 - Resentencing of people to reduced sentences.
 - Diversion programs, which typically provide rehabilitation services in lieu of incarceration.
 - Reentry programs, which provide services to help people transition from incarceration to the community.



Selected Recent State Policy Changes and Funding

Proposition 47 (2014) Resentencing and Funding for Diversion and Reentry

- Proposition 47 reclassified certain nonserious and nonviolent drug possession and theft-related crimes from felonies to misdemeanors and allowed certain people who had been previously convicted of such crimes to apply for reduced sentences.
- Proposition 47 requires that 65 percent of the state savings resulting from the proposition be allocated to the Board of State and Community Corrections (BSCC) for grants to public agencies to provide mental health treatment, substance use disorder treatment, and diversion programs for people in the criminal justice system. Chapter 438 of 2015 (AB 1056, Atkins) requires BSCC to award the grants through a competitive process that prioritizes funding programs that involve certain elements, such as housing or financial assistance, in addition to those required by Proposition 47.
- Between 2016-17 and 2020-21, a total of about \$224 million has been allocated from the General Fund for the Proposition 47 grant program. The Governor's January budget assumes that \$74 million will be provided for the program in 2021-22.

Expanded Authority for Courts to Resentence Inmates

- Chapter 36 of 2018 (AB 1812, Committee on Budget) allowed courts to consider post-conviction factors (such as inmates' disciplinary records) in determining whether to reduce an inmate's sentence upon recommendation by a prison or jail administrator. The *2018-19 Budget Act* provided the California Department of Corrections and Rehabilitation with \$2 million from the General Fund in 2018-19 (decreasing to \$1.5 million in 2020-21 and ongoing) and 13 positions to identify and recommend inmates to courts for resentencing.
- Chapter 1001 of 2018 (AB 2942, Ting) authorized district attorneys to recommend inmates to the courts for resentencing under this process.



Selected Recent State Policy Changes and Funding

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Mental Health Diversion

- Chapters 34 (AB 1810, Committee on Budget) and 1005 (SB 215, Beall) of 2018 authorized trial court judges to grant pre-trial diversion in misdemeanor or felony cases in which the judge determines that the defendant's mental illness was a significant factor in the commission of the offense. Defendants with certain mental illnesses (such as antisocial personality disorder) and certain charges (such as murder) are not eligible.
- Defendants granted diversion receive mental health treatment in the community for up to two years and have their charges dismissed upon successful completion of the program.
- The *2018-19 Budget Act* provided \$99.5 million from the General Fund on a one-time basis for the Department of State Hospitals to contract with counties to establish diversion programs for defendants charged with felonies that are likely to be found Incompetent to Stand Trial (IST). (Under state and federal law, all people who face criminal charges must be mentally competent to help in their defense. A person who is IST lacks the mental competency required to do so.)

Adult Reentry Grant Program

- The *2018-19 Budget Act* provided \$50 million in one-time General Fund support for competitive grants administered by BSCC to community-based organizations to provide reentry services, including rental assistance, for people who were previously incarcerated in state prison.
- The *2019-20 Budget Act* provided \$37 million in ongoing General Fund support for the program.



Selected Recent State Policy Changes and Funding

(Continued)

Diversion of Youth From the Juvenile Justice System

- The *2018-19 Budget Act* included \$37 million in one-time General Fund support for competitive grants administered by BSCC to local governments and tribes for the purpose of diverting low-level offenders away from the juvenile justice system through evidence-based programs. Of this amount, \$1 million was set aside for tribes.
- The *2019-20 Budget Act* included \$15 million in one-time General Fund support for the above program—including \$10 million for tribes.

San Joaquin County Restorative Justice Diversion Program

- The *2019-20 Budget Act* provided San Joaquin County with \$5 million in one-time General Fund support for a diversion program operated by the San Joaquin County District Attorney's Office.
- The funding is intended to support case workers and counselors to guide defendants and their victims through the resolution of cases in a way that holds defendants accountable while also attempting to address defendants' needs, such as for mental health or substance use disorder treatment.

Misdemeanor Diversion

- Chapter 332 of 2020 (AB 3234, Ting) authorized trial court judges to offer diversion to defendants in misdemeanor cases over the objection of prosecutors. Defendants charged with certain crimes, such as domestic violence or sex offenses, are not eligible.
- If defendants comply with the terms set by judges (such as requiring participation in treatment programs) for up to two years, judges are required to dismiss defendants' charges.

