

AMENDED IN SENATE JUNE 7, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2127

**Introduced by Assembly Members ~~Roger Hernández~~ and Member
Carter**

February 23, 2012

An act to amend Section 4024.2 of the Penal Code, relating to work release.

LEGISLATIVE COUNSEL'S DIGEST

AB 2127, as amended, ~~Roger Hernández~~ *Carter*. Work release.

Existing law authorizes the board of supervisors of any county to authorize the sheriff or other official in charge of county correctional facilities to offer a voluntary program under which any person committed to the facility may participate in a work release program in which one day of participation will be in lieu of one day of confinement. Existing law requires that the program be under the direction of a responsible person appointed by the sheriff or other official in charge and that the hours of labor to be performed be uniform for all persons committed to a facility in a county. Existing law authorizes the sheriff or other official to permit a participant in a work release program to receive work release credit for participation in education, vocational training, or substance abuse programs in lieu of performing labor in a work release program on an hour-for-hour basis, but limits credit for that participation to $\frac{1}{2}$ of the hours established for participation in a work release program, and requires that the remaining hours consist of manual labor, as specified.

This bill would instead authorize a sheriff or other official to permit a participant in a work release program to receive work release credit

for documented participation in educational programs, vocational programs, substance abuse programs, life skills programs, or parenting programs. The bill would require that participation in these programs be considered in lieu of performing labor in a work release program on an hour-for-hour basis, with 8 work-related hours to equal to one day of custody credit, and would not limit the credit received for that participation nor require that the participant perform manual labor.

~~The bill would also authorize the sheriff or other official to permit a participant in a work release program to, upon documented proof of employment and verification of attendance at the worksite, receive work release credit for actively seeking and ultimately obtaining regular employment upon release from custody. The bill would authorize the sheriff or other official to award up to 5 days of work release credit for the job search. The bill would require that the participant's regular employment be considered in lieu of performing labor in a work release program on an hour-for-hour basis, with 8 work-related hours equal to one day of custody credit.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

- 1 SECTION 1. Section 4024.2 of the Penal Code is amended to
- 2 read:
- 3 4024.2. (a) Notwithstanding any other law, the board of
- 4 supervisors of any county may authorize the sheriff or other official
- 5 in charge of county correctional facilities to offer a voluntary
- 6 program under which any person committed to the facility may
- 7 participate in a work release program pursuant to criteria described
- 8 in subdivision (b), in which one day of participation will be in lieu
- 9 of one day of confinement.
- 10 (b) The criteria for a work release program are the following:
- 11 (1) The work release program shall consist of any of the
- 12 following:
- 13 (A) Manual labor to improve or maintain levees or public
- 14 facilities, including, but not limited to, streets, parks, and schools.
- 15 (B) Manual labor in support of nonprofit organizations, as
- 16 approved by the sheriff or other official in charge of the
- 17 correctional facilities. As a condition of assigning participants of
- 18 a work release program to perform manual labor in support of

1 nonprofit organizations pursuant to this section, the board of
2 supervisors shall obtain workers' compensation insurance which
3 shall be adequate to cover work-related injuries incurred by those
4 participants, in accordance with Section 3363.5 of the Labor Code.

5 (C) Performance of graffiti cleanup for local governmental
6 entities, including participation in a graffiti abatement program as
7 defined in subdivision (f) of Section 594, as approved by the sheriff
8 or other official in charge of the correctional facilities.

9 (D) Performance of weed and rubbish abatement on public and
10 private property pursuant to Chapter 13 (commencing with Section
11 39501) of Division 3 of Title 4 of the Government Code, or Part
12 5 (commencing with Section 14875) or Part 6 (commencing with
13 Section 14930) of Division 12 of the Health and Safety Code, as
14 approved by the sheriff or other official in charge of the
15 correctional facilities.

16 (E) Performance of house repairs or yard services for senior
17 citizens and the performance of repairs to senior centers through
18 contact with local senior service organizations, as approved by the
19 sheriff or other official in charge of the correctional facilities.
20 Where a work release participant has been assigned to this task,
21 the sheriff or other official shall agree upon in advance with the
22 senior service organization about the type of services to be rendered
23 by the participant and the extent of contact permitted between the
24 recipients of these services and the participant.

25 (F) Any person who is not able to perform manual labor as
26 specified in this paragraph because of a medical condition, physical
27 disability, or age, may participate in a work release program
28 involving any other type of public sector work that is designated
29 and approved by the sheriff or other official in charge of county
30 correctional facilities.

31 (2) The sheriff or other official may permit a participant in a
32 work release program to receive work release credit for documented
33 participation in educational programs, vocational programs,
34 substance abuse programs, life skills programs, or parenting
35 programs. Participation in these programs shall be considered *in*
36 *lieu of performing labor in a work release program*, with eight
37 work-related hours to equal to one day of custody credit. ~~The~~
38 ~~sheriff or other official may also permit a participant in a work~~
39 ~~release program to, upon documented proof of employment and~~
40 ~~verification of attendance at the worksite, receive work release~~

1 ~~credit for actively seeking and ultimately obtaining regular~~
2 ~~employment upon release from custody. The sheriff or other official~~
3 ~~may award up to five days of work release credit for the job search,~~
4 ~~and the participant's regular employment shall be considered in~~
5 ~~lieu of performing labor in a work release program on an~~
6 ~~hour-for-hour basis, with eight work-related hours equal to one~~
7 ~~day of custody credit.~~

8 (3) The work release program shall be under the direction of a
9 responsible person appointed by the sheriff or other official in
10 charge.

11 (4) The hours of labor to be performed pursuant to this section
12 shall be uniform for all persons committed to a facility in a county
13 and may be determined by the sheriff or other official in charge
14 of county correctional facilities, and each day shall be a minimum
15 of 8 and a maximum of 10 hours, in accordance with the normal
16 working hours of county employees assigned to supervise the
17 programs. However, reasonable accommodation may be made for
18 participation in a program under paragraph (2).

19 As used in this section, "nonprofit organizations" means
20 organizations established or operated for the benefit of the public
21 or in support of a significant public interest, as set forth in Section
22 501(c)(3) of the Internal Revenue Code. Organizations established
23 or operated for the primary purpose of benefiting their own
24 memberships are specifically excluded.

25 (c) The board of supervisors may prescribe reasonable rules and
26 regulations under which a work release program is operated and
27 may provide that participants wear clothing of a distinctive
28 character while performing the work. As a condition of
29 participating in a work release program, a person shall give his or
30 her promise to appear for work or assigned activity by signing a
31 notice to appear before the sheriff or at the education, vocational,
32 or substance abuse program at a time and place specified in the
33 notice and shall sign an agreement that the sheriff may immediately
34 retake the person into custody to serve the balance of his or her
35 sentence if the person fails to appear for the program at the time
36 and place agreed to, does not perform the work or activity assigned,
37 or for any other reason is no longer a fit subject for release under
38 this section. A copy of the notice shall be delivered to the person
39 and a copy shall be retained by the sheriff. Any person who

1 willfully violates his or her written promise to appear at the time
2 and place specified in the notice is guilty of a misdemeanor.

3 Whenever a peace officer has reasonable cause to believe the
4 person has failed to appear at the time and place specified in the
5 notice or fails to appear or work at the time and place agreed to or
6 has failed to perform the work assigned, the peace officer may,
7 without a warrant, retake the person into custody, or the court may
8 issue an arrest warrant for the retaking of the person into custody,
9 to complete the remainder of the original sentence. A peace officer
10 may not retake a person into custody under this subdivision,
11 without a warrant for arrest, unless the officer has a written order
12 to do so, signed by the sheriff or other person in charge of the
13 program, that describes with particularity the person to be retaken.

14 (d) Nothing in this section shall be construed to require the
15 sheriff or other official in charge to assign a person to a program
16 pursuant to this section if it appears from the record that the person
17 has refused to satisfactorily perform as assigned or has not
18 satisfactorily complied with the reasonable rules and regulations
19 governing the assignment or any other order of the court.

20 A person shall be eligible for work release under this section
21 only if the sheriff or other official in charge concludes that the
22 person is a fit subject therefor.

23 (e) The board of supervisors may prescribe a program
24 administrative fee, not to exceed the pro rata cost of administration,
25 to be paid by each person according to his or her ability to pay.