

ASSEMBLY BILL

No. 632

Introduced by Assembly Member Fox

February 20, 2013

An act to amend Section 1208 of the Penal Code, relating to work furlough.

LEGISLATIVE COUNSEL'S DIGEST

AB 632, as introduced, Fox. Work furlough: county jails.

Existing law authorizes a county, upon approval by the board of supervisors, to establish a work furlough program. Existing law authorizes the board to designate a county facility and a work furlough administrator for the program, as specified. Existing law provides that when a person is convicted of a misdemeanor and sentenced to a county jail, the work furlough administrator may, if he or she concludes that the person is a fit subject to continue in his or her regular employment or job training program, direct that the person be permitted to continue in that employment or job training program, as specified, or may authorize the person to secure employment or local job training for himself or herself, unless the court at the time of sentencing or committing has ordered that the person not be granted work furlough. Existing law describes job training for purposes of these provisions.

This bill would make technical, nonsubstantive changes to these provisions.

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 1208 of the Penal Code is amended to
 2 read:

3 1208. (a) (1) The provisions of this section, insofar as they
 4 relate to employment, shall be operative in any county in which
 5 the board of supervisors by ordinance finds, on the basis of
 6 employment conditions, the state of the county jail facilities, and
 7 other pertinent circumstances, that the operation of this section,
 8 insofar as it relates to employment, in that county is feasible. The
 9 provisions of this section, insofar as they relate to job training,
 10 shall be operative in any county in which the board of supervisors
 11 by ordinance finds, on the basis of job training conditions, the state
 12 of the county jail facilities, and other pertinent circumstances, that
 13 the operation of this section, insofar as it relates to job training, in
 14 that county is feasible. The provisions of this section, insofar as
 15 they relate to education, shall be operative in any county in which
 16 the board of supervisors by ordinance finds, on the basis of
 17 education conditions, the state of the county jail facilities, and
 18 other pertinent circumstances, that the operation of this section,
 19 insofar as it relates to education, in that county is feasible. In any
 20 ordinance the board shall prescribe whether the sheriff, the
 21 probation officer, the director of the county department of
 22 corrections, or the superintendent of a county industrial farm or
 23 industrial road camp in the county shall perform the functions of
 24 the work furlough administrator. The board may, in that ordinance,
 25 provide for the performance of any or all functions of the work
 26 furlough administrator by any one or more of those persons, acting
 27 separately or jointly as to any of the functions; and may, by a
 28 subsequent ordinance, revise the provisions within the authorization
 29 of this section. The board of supervisors may also terminate the
 30 operation of this section, either with respect to employment, job
 31 training, or education in the county if it finds by ordinance that
 32 because of changed circumstances, the operation of this section,
 33 either with respect to employment, job training, or education in
 34 that county is no longer feasible.

35 **Notwithstanding**

36 (2) *Notwithstanding* any other provision of law, the board of
 37 supervisors may by ordinance designate a facility for confinement
 38 of prisoners classified for the work furlough program and designate

1 the work furlough administrator as the custodian of the facility.
2 The work furlough administrator may operate the work furlough
3 facility or, with the approval of the board of supervisors, administer
4 the work furlough facility pursuant to written contracts with
5 appropriate public or private agencies or private entities. No agency
6 or private entity may operate a work furlough program or facility
7 without a written contract with the work furlough administrator,
8 and no agency or private entity entering into a written contract
9 may itself employ any person who is in the work furlough program.
10 The sheriff or director of the county department of corrections, as
11 the case may be, is authorized to transfer custody of prisoners to
12 the work furlough administrator to be confined in a facility for the
13 period during which they are in the work furlough program.

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15 (3) All privately operated local work furlough facilities and
16 programs shall be under the jurisdiction of, and subject to the terms
17 of a written contract entered into with, the work furlough
18 administrator. Each contract shall include, but not be limited to, a
19 provision whereby the private agency or entity agrees to operate
20 in compliance with all appropriate state and local building, zoning,
21 health, safety, and fire statutes, ordinances, and regulations and
22 the minimum jail standards for Type IV facilities as established
23 by regulations adopted by the Board of *State and Community*
24 Corrections, and a provision whereby the private agency or entity
25 agrees to operate in compliance with Section 1208.2, which
26 provides that no eligible person shall be denied consideration for,
27 or be removed from, participation in a work furlough program
28 because of an inability to pay all or a portion of the program fees.
29 The private agency or entity shall select and train its personnel in
30 accordance with selection and training requirements adopted by
31 the Board of *State and Community* Corrections as set forth in
32 Subchapter 1 (commencing with Section 100) of Chapter 1 of
33 Division 1 of Title 15 of the California Code of Regulations.
34 Failure to comply with the appropriate health, safety, and fire laws
35 or minimum jail standards adopted by the board may be cause for
36 termination of the contract. Upon discovery of a failure to comply
37 with these requirements, the work furlough administrator shall
38 notify the privately operated program director that the contract
39 may be canceled if the specified deficiencies are not corrected
40 within 60 days.

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2 (4) All private work furlough facilities and programs shall be
3 inspected biennially by the Board of *State and Community*
4 Corrections unless the work furlough administrator requests an
5 earlier inspection pursuant to Section 6031.1. Each private agency
6 or entity shall pay a fee to the Board of *State and Community*
7 Corrections commensurate with the cost of those inspections and
8 a fee commensurate with the cost of the initial review of the
9 facility.

10 (b) When a person is convicted of a misdemeanor and sentenced
11 to the county jail, or is imprisoned in the county jail for
12 nonpayment of a fine, for contempt, or as a condition of probation
13 for any criminal offense, the work furlough administrator may, if
14 he or she concludes that the person is a fit subject to continue in
15 his or her regular employment, direct that the person be permitted
16 to continue in that employment, if that is compatible with the
17 requirements of subdivision (c), or may authorize the person to
18 secure employment for himself or herself, unless the court at the
19 time of sentencing or committing has ordered that the person not
20 be granted work furloughs. The work furlough administrator may,
21 if he or she concludes that the person is a fit subject to continue
22 in his or her job training program, direct that the person be
23 permitted to continue in that job training program, if that is
24 compatible with the requirements of subdivision (c), or may
25 authorize the person to secure local job training for himself or
26 herself, unless the court at the time of sentencing has ordered that
27 person not be granted work furloughs. The work furlough
28 administrator may, if he or she concludes that the person is a fit
29 subject to continue in his or her regular educational program, direct
30 that the person be permitted to continue in that educational
31 program, if that is compatible with the requirements of subdivision
32 (c), or may authorize the person to secure education for himself
33 or herself, unless the court at the time of sentencing has ordered
34 that person not be granted work furloughs.

35 (c) If the work furlough administrator so directs that the prisoner
36 be permitted to continue in his or her regular employment, job
37 training, or educational program, the administrator shall arrange
38 for a continuation of that employment or for that job training or
39 education, so far as possible without interruption. If the prisoner
40 does not have regular employment or a regular job training or

1 educational program, and the administrator has authorized the
2 prisoner to secure employment, job training, or education for
3 himself or herself, the prisoner may do so, and the administrator
4 may assist the prisoner in doing so. Any employment, job training,
5 or education so secured shall be suitable for the prisoner. The
6 employment, and the job training or educational program if it
7 includes earnings by the prisoner, shall be at a wage at least as
8 high as the prevailing wage for similar work in the area where the
9 work is performed and in accordance with the prevailing working
10 conditions in that area. In no event may any employment, job
11 training, or educational program involving earnings by the prisoner
12 be permitted where there is a labor dispute in the establishment in
13 which the prisoner is, or is to be, employed, trained, or educated.

14 (d) (1) Whenever the prisoner is not employed or being trained
15 or educated and between the hours or periods of employment,
16 training, or education, the prisoner shall be confined in the facility
17 designated by the board of supervisors for work furlough
18 confinement unless the work furlough administrator directs
19 otherwise. If the prisoner is injured during a period of employment,
20 job training, or education, the work furlough administrator shall
21 have the authority to release him or her from the facility for
22 continued medical treatment by private physicians or at medical
23 facilities at the expense of the employer, workers' compensation
24 insurer, or the prisoner. The release shall not be construed as
25 assumption of liability by the county or work furlough
26 administrator for medical treatment obtained.

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28 (2) *The* work furlough administrator may release any prisoner
29 classified for the work furlough program for a period not to exceed
30 72 hours for medical, dental, or psychiatric care, or for family
31 emergencies or pressing business which would result in severe
32 hardship if the release were not granted, or to attend those activities
33 as the administrator deems may effectively promote the prisoner's
34 successful return to the community, including, but not limited to,
35 an attempt to secure housing, employment, entry into educational
36 programs, or participation in community programs.

37 (e) The earnings of the prisoner may be collected by the work
38 furlough administrator, and it shall be the duty of the prisoner's
39 employer to transmit the wages to the administrator at the latter's
40 request. Earnings levied upon pursuant to writ of execution or in

1 other lawful manner shall not be transmitted to the administrator.
2 If the administrator has requested transmittal of earnings prior to
3 levy, that request shall have priority. In a case in which the
4 functions of the administrator are performed by a sheriff, and the
5 sheriff receives a writ of execution for the earnings of a prisoner
6 subject to this section but has not yet requested transmittal of the
7 prisoner's earnings pursuant to this section, the sheriff shall first
8 levy on the earnings pursuant to the writ. When an employer or
9 educator transmits earnings to the administrator pursuant to this
10 subdivision, the sheriff shall have no liability to the prisoner for
11 those earnings. From the earnings the administrator shall pay the
12 prisoner's board and personal expenses, both inside and outside
13 the jail, and shall deduct so much of the costs of administration of
14 this section as is allocable to the prisoner or if the prisoner is unable
15 to pay that sum, a lesser sum as is reasonable, and, in an amount
16 determined by the administrator, shall pay the support of the
17 prisoner's dependents, if any. If sufficient funds are available after
18 making the foregoing payments, the administrator may, with the
19 consent of the prisoner, pay, in whole or in part, the preexisting
20 debts of the prisoner. Any balance shall be retained until the
21 prisoner's discharge. Upon discharge the balance shall be paid to
22 the prisoner.

23 (f) The prisoner shall be eligible for time credits pursuant to
24 Sections 4018 and 4019.

25 (g) In the event the prisoner violates the conditions laid down
26 for his or her conduct, custody, job training, education, or
27 employment, the work furlough administrator may order the
28 balance of the prisoner's sentence to be spent in actual confinement.

29 (h) Willful failure of the prisoner to return to the place of
30 confinement not later than the expiration of any period during
31 which he or she is authorized to be away from the place of
32 confinement pursuant to this section is punishable as provided in
33 Section 4532.

34 (i) The court may recommend or refer a person to the work
35 furlough administrator for consideration for placement in the work
36 furlough program or a particular work furlough facility. The
37 recommendation or referral of the court shall be given great weight
38 in the determination of acceptance or denial for placement in the
39 work furlough program or a particular work furlough facility.

40 (j) As used in this section, the following definitions apply:

- 1 (1) "Education" includes vocational and educational training
2 and counseling, and psychological, drug abuse, alcoholic, and
3 other rehabilitative counseling.
- 4 (2) "Educator" includes a person or institution providing that
5 training or counseling.
- 6 (3) "Employment" includes care of children, including the
7 daytime care of children of the prisoner.
- 8 (4) "Job training" may include, but shall not be limited to, job
9 training assistance as provided through the Job Training Partnership
10 Act (Public Law 97-300; 29 U.S.C.A. Sec. 1501 et seq.).
- 11 (k) This section shall be known and may be cited as the "Cobey
12 Work Furlough Law."

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