

**Introduced by Senator Lieu**February 1, 2013

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An act to add Section 2690.5 to the Penal Code, relating to prisoners.

## LEGISLATIVE COUNSEL'S DIGEST

SB 162, as introduced, Lieu. Prisoners: temporary removal.

Under existing law, the Secretary of the Department of Corrections and Rehabilitation may authorize the temporary removal of any inmate from prison or any other institution for the detention of adults under the jurisdiction of the department.

Existing law authorizes the superior court, when it is necessary to have a prisoner brought before any court to be tried for a felony, or for other limited purposes, to order the prisoner's temporary removal from prison, and the prisoner's production before the court, grand jury, or magistrate. Existing law additionally authorizes the superior court, when the testimony of a material witness is required in a criminal action, as specified, and the witness is a prisoner in a state prison, to order the prisoner's temporary removal from prison, and the prisoner's production before the court, grand jury, or magistrate.

This bill would authorize the superior court to order the temporary removal of a prisoner from a state prison facility, and his or her transportation to a county or city jail, if a legitimate law enforcement purpose exists to move the prisoner. The bill would require the order to be made at the discretion of the court, and only upon the affidavit of the requesting district attorney or peace officer. The bill would make the expense of executing the order a proper charge against, and require payment by, the county in which the order is made.

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 2690.5 is added to the Penal Code, to  
2 read:

3 2690.5. (a) The superior court of the county in which a  
4 requesting district attorney or peace officer has jurisdiction may  
5 order the temporary removal of a prisoner from a state prison  
6 facility, and his or her transportation to a county or city jail, if a  
7 legitimate law enforcement purpose exists to move the prisoner.  
8 An order for the temporary removal of a prisoner shall be issued  
9 at the discretion of the court, and only upon the affidavit of the  
10 requesting district attorney or peace officer stating that the law  
11 enforcement purpose is legitimate and necessary.

12 (b) An order for the temporary removal of a prisoner shall  
13 include all of the following:

14 (1) A recitation of the purposes for which the prisoner is to be  
15 brought to the county or city jail.

16 (2) The affidavit of the requesting district attorney or peace  
17 officer stating that the law enforcement purpose is legitimate and  
18 necessary.

19 (3) The signature of the judge or magistrate making the order.

20 (4) The seal of the court, if any.

21 (c) An order for the temporary removal of a prisoner shall be  
22 executed by the sheriff of the county in which the order is issued.  
23 It shall be the duty of the sheriff to bring the prisoner to the proper  
24 county or city jail, to safely retain the prisoner, and to return the  
25 prisoner to the state prison facility when he or she is no longer  
26 required for the stated law enforcement purpose. The expense of  
27 executing the order shall be a proper charge against, and shall be  
28 paid by, the county in which the order is made.

29 (d) If a prisoner is removed from a state prison facility pursuant  
30 to an order in accordance with this section, the prisoner shall  
31 remain at all times in the constructive custody of the warden of  
32 the state prison facility. During the temporary removal, the prisoner  
33 may be ordered to appear in other felony proceedings as a  
34 defendant or witness in the superior court of the county from which  
35 the original order for the temporary removal was issued. A copy  
36 of the written order directing the prisoner to appear before the

- 1 superior court shall be forwarded by the district attorney to the
- 2 warden of the prison having custody of the prisoner.

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