

AMENDED IN SENATE APRIL 15, 2015  
AMENDED IN SENATE MARCH 12, 2015

**SENATE BILL**

**No. 171**

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**Introduced by Senator Gaines**

February 5, 2015

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An act to amend Section 4004 of, and to add Section 4004.6 to, the Penal Code, relating to imprisonment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 171, as amended, Gaines. County jail inmates: involuntary transfer.

Existing law requires a prisoner who is committed to a county jail to be actually confined until legally discharged. Existing law authorizes a sheriff, if facilities are no longer available in a county jail due to crowded conditions, to transfer a person committed to a county jail upon conviction for a public offense to facilities that are available in a city jail.

This bill would authorize the sheriff of a county, if the county jail is over 80% ~~capacity~~, *capacity, and with the approval of the county board of supervisors*, to contract with any state, county, or private jail or prison system in the United States for the confinement of inmates on behalf of the county and to transfer inmates to those facilities, with or without the inmate's permission. The bill would authorize the county to submit an invoice, and the Department of Corrections and Rehabilitation to pay, for the actual cost of housing and transportation of transferred inmates. The bill would appropriate an unspecified amount from the General Fund to the Department of Corrections and Rehabilitation for these purposes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 4004 of the Penal Code is amended to  
2 read:

3 4004. (a) A person committed to a county jail for examination,  
4 or upon conviction for a public offense, shall be actually confined  
5 in the jail until legally discharged. If the prisoner is permitted to  
6 go at large out of the jail, except by virtue of a legal order or  
7 process, it is an escape. However, during the pendency of a criminal  
8 proceeding, the court before which that proceeding is pending may  
9 make a legal order, with good cause, for the removal of the prisoner  
10 from that county jail in custody of the sheriff. In courts with a  
11 marshal, the marshal shall maintain custody of the prisoner while  
12 the prisoner is in the court facility pursuant to the court order. The  
13 superior court of a county may make a legal order, with good cause,  
14 for the removal of prisoners confined in a county jail, after  
15 conviction, in the custody of the sheriff.

16 (b) If facilities are no longer available in a county jail due to  
17 crowded conditions, the sheriff may transfer a person committed  
18 to that county jail upon conviction for a public offense to facilities  
19 that are available in a city jail, as provided for in Section 4004.5,  
20 or to another facility as provided in Section 4004.6.

21 SEC. 2. Section 4004.6 is added to the Penal Code, to read:

22 4004.6. (a) ~~The~~ *With the approval of the county board of*  
23 *supervisors, the* sheriff of a county may, if the county jail is over  
24 80 percent capacity, contract with any state, county, or private jail  
25 or prison system in the United States for the confinement of  
26 inmates on behalf of the county.

27 (b) The sheriff may transfer any person committed to the county  
28 jail upon conviction for a public offense to a facility with which  
29 the county has a contract, pursuant to subdivision (a), with or  
30 without the inmate's consent. Transfers shall be at the discretion  
31 of the county sheriff.

32 (c) The county may submit to the Department of Corrections  
33 and Rehabilitation an invoice showing the actual cost of housing

1 and transportation of the inmates, including, but not limited to,  
2 personnel costs. The department shall reimburse the county for all  
3 costs incurred to house and transport inmates who are relocated  
4 pursuant to this section.

5 SEC. 3. The amount of \_\_\_\_ dollars (\$\_\_\_\_) is hereby  
6 appropriated from the General Fund to the Department of  
7 Corrections and Rehabilitation to pay the cost of housing and  
8 transportation of inmates incurred pursuant to Section 4004.6 of  
9 the Penal Code.

10 SEC. 4. This act is an urgency statute necessary for the  
11 immediate preservation of the public peace, health, or safety within  
12 the meaning of Article IV of the Constitution and shall go into  
13 immediate effect. The facts constituting the necessity are:

14 In order to preserve the safety of the people of California by  
15 preventing early release of county jail inmates, it is necessary for  
16 this measure to take effect immediately.