

AMENDED IN ASSEMBLY APRIL 28, 1999

AMENDED IN ASSEMBLY APRIL 7, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1255

Introduced by Assembly Member Wright

February 26, 1999

An act to add and repeal Chapter 1.3 (commencing with Section 1210) of Title 8 of Part 2 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1255, as amended, R. Wright. Sentencing: intensive correctional supervision program.

Existing law provides as a sentencing option for convicted felons, that the felon be placed on probation with court-ordered conditions of probation, if eligible, or sentenced to a term of imprisonment in the state prison.

This bill would set forth legislative findings and declarations of intent in regard to prison crowding and the need for community-based intermediate sanctions as an alternative to prison.

This bill would provide for the awarding of grants for the establishment of intensive correctional supervision programs, as specified, to which convicted felony offenders who meet enumerated criteria may be sentenced by a court for up to 9 months and upon completion of which the offender would be required to be placed on probation for up to 4 years. The bill

would require that the programs commence on or after July 1, 2002.

This bill would require the probation officers of participating counties to make an investigation of the offender's eligibility and suitability for intensive correctional supervision, the results of which would be included in the probation officer's recommendation to the court.

This bill would specify that the chief probation officer of each participating county would be responsible for the county program under the bill and for coordinating and contracting for all related services. The bill would also specify that the Board of Corrections would have administrative responsibility for, and oversight of, the county programs.

The bill would provide that funding for the bill is contingent upon an unspecified appropriation in the Budget Act of 1999 from which the Board of Corrections would be required to provide funds to counties for the purposes of the bill.

This bill would also require the Department of Corrections, on or before January 1, 2007, to evaluate, as specified, the intensive correctional supervision programs and report the conclusions of its evaluations to the Legislature.

The bill would provide that its provisions shall remain in effect until January 1, 2008, and as of that date are repealed.

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

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

1 SECTION 1. This act shall be known and may be cited
2 as the State-Local Corrections Partnership Act of 2000.

3 SEC. 2. (a) The Legislature finds and declares the
4 following:

5 (1) The state prison population on June 30, 1998, was
6 158,207 compared to 72,121 on June 30, 1988, an annual
7 compounded growth of 8.2 percent.

8 (2) Without some significant change in this growth, or
9 alternative sentencing programs, the state will be forced
10 to spend billions of dollars in new state prison
11 construction.



1 (3) The practice of the imprisonment of new
2 commitments and parole violators in the state prison who
3 serve one year or less offers little opportunity to
4 implement strategies to manage offender behavior and to
5 sustain long-term behavior change that would promote
6 public safety.

7 (4) The 24-member Blue Ribbon Commission on
8 Inmate Population Management, including the 13
9 members appointed by the Governor, unanimously
10 agreed in its final report that "... insufficient prevention
11 efforts, intermediate sanctions, and programs for those
12 incarcerated exist, and as a result, there are offenders
13 incarcerated and on probation who judges and parole
14 authorities would, and should, manage differently if those
15 sanctions were available."

16 (5) The commission found that certain individuals
17 with no history of violence and noncareer offenders are
18 likely target populations for punishment options other
19 than prison.

20 (6) The commission recommended intensive
21 probation supervision, residential and nonresidential
22 substance abuse treatment programs, and other
23 community-based punishment options as alternatives to
24 state prison for minor parole violators and nonviolent
25 offenders facing short prison commitments.

26 (7) Intensive correctional supervision programs have
27 reduced recidivism and prison overcrowding in other
28 states which have adopted similar programs.

29 (8) State and local corrections should be viewed as an
30 interconnected system that provides an array of
31 appropriate punishment alternatives, including
32 intermediate punishment options.

33 (9) A strategy of realigning juvenile and adult justice
34 responsibilities of state and local correctional systems in
35 a manner that maintains public safety, increases
36 accountability, and reduces costs is needed.

37 (10) It is the intent of the Legislature that local
38 government be given the opportunity to participate in a
39 state-local partnership to house specified populations of
40 the state prison. A dedicated revenue source equal to



1 state savings shall be provided to participating local
2 governments as a part of this transaction.

3 (b) It is the intent of the Legislature to endorse the
4 commission’s findings as to the need for
5 community-based intermediate sanctions and to
6 implement a program of intensive correctional
7 supervision, drug testing and treatment, intermediate
8 punishment options, and mandatory educational and
9 employment programs.

10 SEC. 3. Chapter 1.3 (commencing with Section 1210)
11 is added to Title 8 of Part 2 of the Penal Code, to read:

12

13 CHAPTER 9. STATE-LOCAL CORRECTIONS PARTNERSHIP
14 ACT OF 2000

15

16 1210. This chapter shall be known and may be cited
17 as the State-Local Corrections Partnership Act of 2000.

18 1210.1. As used in this chapter, the following
19 definitions apply:

20 (a) “Board” means the Board of Corrections.

21 (b) “Intensive correctional supervision” means a
22 program, established pursuant to this chapter and
23 administered by a county probation department,
24 consisting of highly structured and closely supervised
25 probation which emphasizes appropriate interventions,
26 including, but not limited to, treatment of substance
27 abuse, education, counseling, employment development,
28 payment of restitution to crime victims, fines, and penalty
29 assessments.

30 (c) “Officer” means a probation officer as listed in
31 Section 830.5.

32 (d) “Offender” means a person who has been
33 sentenced to, or ordered to participate in, an intensive
34 correctional supervision program.

35 1210.2. For the grant programs identified in this
36 chapter, the board shall establish minimum
37 requirements, funding schedules, and procedures on or
38 before September 30, 2001, that take into consideration,
39 but are not limited to, the following:



1 (a) Intensive supervision teams, consisting of at least
2 two officers, who shall supervise no more than 40
3 offenders at one time.

4 (b) Close supervision and observation of offenders
5 being supervised, including, but not limited to, all of the
6 following:

7 (1) Face-to-face contact between an officer and the
8 offender at least two times per week.

9 (2) Frequent chemical testing for the use of alcohol,
10 controlled substances, or both, where their use has been
11 prohibited as a condition of participation in the program.

12 (3) At least weekly contact by an officer and the
13 offender's employer, educational institution, treatment
14 program, or counselor.

15 (c) State licensed inpatient and outpatient treatment
16 programs for alcohol and drug abuse which shall be
17 ordered when appropriate and made available as needed
18 for any offender with substance abuse problems.

19 (d) Job training, placement, education programs, or
20 any combination of these, which shall be mandatory for
21 any offender who is not employed full time or is not a
22 full-time student and is medically capable of participating
23 in the programs.

24 (e) A requirement that each offender be occupied five
25 days each week, with employment, education, a job
26 search, job training, community service, counseling,
27 treatment, or a combination of these activities, as
28 directed by an officer, until gainfully employed, except
29 where this is not possible because of documented mental
30 or physical health constraints. An offender who is
31 gainfully employed shall continue to receive counseling
32 or treatment or both if an officer determines that the
33 offender requires the continuation of those activities in
34 order to successfully perform in the program.

35 (f) A case management approach utilizing a
36 community corrections advisory committee appointed
37 by the Chief Probation Officer and consisting of
38 appropriate representatives, including, but not limited
39 to, those from probation, local law enforcement,
40 substance abuse counseling, medical, mental health,



1 employment development, and education. The
 2 community corrections advisory committee shall work
 3 with intensive supervision teams and assess and address
 4 the needs of each offender.

5 1210.3. An intensive correctional supervision
 6 program may also include any or all of the following:

- 7 (a) House arrest.
- 8 (b) Electronic monitoring.
- 9 (c) Community service.
- 10 (d) A probation treatment program involving
- 11 restitution to the victim, and the payment of fines and
- 12 penalty assessments, by the offender.
- 13 (e) Placement in a substance abuse community
- 14 correctional center, if available.

15 1210.4. (a) An offender who has been convicted of a
 16 felony or felonies may be sentenced by a court to a county
 17 probation intensive correctional supervision program if
 18 he or she meets all of the following criteria:

19 (1) The present offense is for a crime punishable by 16
 20 months, two or three years, or one, two, or three years in
 21 the state prison, or for an attempt to commit such a crime,
 22 which did not involve violence against the person of
 23 another, molestation of a minor, or drug trafficking.

24 (2) The offender has not been convicted of a violent
 25 felony, as defined by subdivision (c) of Section 667.5, or
 26 a serious felony, as defined by subdivision (c) of Section
 27 1192.7, or convicted of violating any of the following
 28 provisions:

29 Section 69 or 191.5, subdivision (b) or paragraph (1) or
 30 (3) of subdivision (c) of Section 192, subdivision (a) of
 31 Section 217.1, Section 243, 243.1, or 243.3, subdivision (a)
 32 or (c) of Section 243.4, Section 244, 245, 245.3, 246, 266f,
 33 266h, or 273.5, subdivision (a) of Section 273a, Section
 34 273d or 285, subdivision (b) of Section 286, Section 288a,
 35 subdivisions (b), (h), or (i) of Section 289, subdivision (b)
 36 of Section 311.2, subdivision (c) of Section 311.4, or
 37 Section 314, 417.6, 647.6, 4131.5, or 4501.5 of the Penal
 38 Code, or Section 2800.2 or 20001 or subdivision (b) of
 39 Section 23104 of the Vehicle Code.



1 (3) The offender has not been placed on probation ~~and~~
2 *or* ordered to serve time in a county jail as a condition of
3 probation *within the previous five years*.

4 (4) The offender does not have a significant criminal
5 history which would render him or her unsuitable for the
6 program.

7 (5) It appears from all information available that the
8 offender would benefit from, and that public safety would
9 not be threatened by, sentencing the offender to an
10 intensive correctional supervision program. Public safety
11 and offender accountability shall be the primary
12 consideration.

13 (6) The offender agrees in writing to the terms and
14 conditions of intensive correctional supervision.

15 (7) The offender otherwise would have been
16 committed to the state prison for ~~one year~~ *two years* or
17 less. For the purpose of this chapter, the term
18 “committed to the state prison for ~~one year~~ *two years* or
19 less” refers to the length of the ~~prison sentence less~~
20 ~~preprison credit for time served and less maximum credit~~
21 ~~available under Article 2.5 (commencing with Section~~
22 ~~2930) of Chapter 7 of Title 1 of Part 3.~~ *prison sentence*.

23 (b) In any case in which an offender may be eligible
24 for a county probation intensive correctional supervision
25 program, the probation officer shall, as part of his or her
26 investigation pursuant to Section 1203, make an
27 investigation of the offender’s eligibility and suitability
28 for intensive correctional supervision. The probation
29 officer shall consider (1) the criteria contained in this
30 chapter, (2) whether or not the defendant would benefit
31 from education, treatment, and rehabilitation, and (3)
32 whether or not the offender would pose a threat to public
33 safety if sentenced to intensive correctional supervision.
34 The probation officer shall include this information in his
35 or her recommendation to the court.

36 (c) It is the intent of the Legislature in enacting this
37 chapter that offenders who have substance abuse
38 problems be given priority in participating in the
39 program.



1 (d) Nothing in this chapter shall be construed to limit
2 the ability or obligation of a court to impose confinement
3 in a county jail or a community correctional facility as a
4 condition of probation before an offender is sentenced to
5 the intensive correctional supervision program.

6 (e) In sentencing a person to intensive correctional
7 supervision, a court shall impose terms and conditions
8 consistent with the requirements of this chapter and shall,
9 as an additional condition, require the offender to waive
10 any right to a hearing to contest imposition by a probation
11 officer of the intermediate sanctions specified in
12 subdivision (b) of Section 1210.9. The court may also
13 impose additional terms and conditions as provided for by
14 law for persons placed on probation or given a conditional
15 sentence under Section 1203.

16 (f) An offender may be sentenced to intensive
17 correctional supervision pursuant to this chapter for a
18 period of up to nine months. After completion of
19 intensive correctional supervision, the offender shall be
20 placed on supervised probation for up to four years.

21 (g) Nothing in this chapter shall be construed to limit
22 an offender's right to petition for termination of a period
23 of probation under Section 1203.3 or to seek dismissal of
24 the accusations or information under Section 1203.4.
25 However, an offender may exercise his or her rights
26 under these sections only upon successful completion of
27 intensive correctional supervision.

28 (h) Offenders sentenced pursuant to this section shall
29 be deemed to have served a prior state prison term for
30 purposes of this code.

31 (i) The chief probation officer of each county shall be
32 responsible for the county probation intensive
33 correctional supervision program and for coordinating
34 and contracting for all related services.

35 (j) This section shall not apply to a person committed
36 to the Department of Corrections on or before January 1,
37 2001.

38 1210.5. (a) Funding for this chapter shall be provided
39 from the amount appropriated in Item
40 5430-_____ of the Budget Act of 1999. Up to



1 5 percent of the amount appropriated in Item
2 5430-_____-_____ of the Budget Act of 1999 shall be
3 transferred, upon the approval of the Director of
4 Finance, to Item 5430-_____-_____ for expenditure
5 as necessary for the board to administer this program,
6 including providing technical assistance to counties and
7 developing and monitoring an evaluation component
8 with participating counties. From these funds, the board
9 shall award funds for intensive supervision probation
10 programs operated by the county probation department
11 for persons who would otherwise be sentenced to the
12 state prison, and alcohol and substance abuse testing and
13 treatment, education, employment assistance, mental
14 health counseling for persons in these programs. Funds
15 may also be used for the purpose specified in Section
16 1210.4 for persons in these programs, and related
17 evaluation.

18 (b) Each participating county shall execute a contract
19 with the board that will include, but not be limited to, the
20 following conditions:

21 (1) On or before October 1 of each year, beginning in
22 2000, each county shall adopt an intensive Correction
23 Supervision Plan and budget for the following fiscal year
24 and shall submit the plan and budget to the board in
25 accordance with procedures specified by the board.

26 (2) For the 2001–02 fiscal year, each county shall
27 submit a plan and budget on or before December 31,
28 2000.

29 (3) Funds shall be allocated to counties for each person
30 sentenced to the intensive correctional supervision
31 program who would otherwise have been sentenced to
32 the state prison. The funding for each offender shall be
33 prorated to reflect the amount of time actually served by
34 the offender in the intensive correctional supervision
35 program.

36 (4) Each county probation department shall maintain
37 a separate fund account in order to identify the funds and
38 clearly show the manner of their disposition. These funds
39 shall be used by county probation departments only for



1 intensive correctional supervision and to contract for
2 services to offenders, as authorized by this chapter.

3 (5) Commencing in the 2003–04 fiscal year, the
4 distribution of funds pursuant to this chapter shall be
5 made on a quarterly basis in accordance with minimum
6 requirements, funding schedules, procedures, or
7 guidelines adopted by the board.

8 (6) Each county probation department shall provide
9 reports of expenditures and other relevant information,
10 as deemed appropriate, in the manner and form
11 prescribed by the board.

12 (c) Allocation of funds shall be made upon application
13 by each participating county to the board and shall be
14 available for two fiscal years subsequent to the fiscal year
15 in which the original appropriation was made.

16 (d) (1) Allocation of the amount determined in
17 paragraph (3) of subdivision (b) shall be made to a
18 participating county upon submission of a plan and
19 budget, as required by paragraphs (1) and (2) of
20 subdivision (b), and upon application for funds by the
21 county to the board, based upon criteria to be developed
22 by the department in conjunction with the counties.

23 ~~(g)~~

24 (2) The criteria shall provide for reports of
25 expenditures and information and shall constitute a
26 contractual obligation.

27 ~~(h) Commencing in the 2002–03 fiscal year, the~~
28 ~~distribution of funds pursuant to this chapter shall be~~
29 ~~made on a quarterly basis in accordance with regulations~~
30 ~~adopted by the department.~~

31 (e) Unexpended funds may be reallocated by the
32 board.

33 (f) The board shall monitor the expenditures of funds
34 of a participating county to determine whether the funds
35 are being expended in accordance with the requirements
36 of this chapter. The board shall also establish
37 requirements for the evaluation of programs supported
38 by this chapter, including requirements designed to
39 demonstrate the effectiveness of these programs in
40 reducing state prison crowding.



1 (g) If the board finds that a participating county is not
2 acting in accordance with all of the requirements of this
3 chapter and the contract with the board, it shall notify the
4 county regarding the noncompliance, and the county
5 shall have 60 days to explain or justify its action in writing
6 to the board. If the noncompliance cannot be promptly
7 remedied, the board may issue a notice of noncompliance
8 and may suspend payment of any funds due the county
9 under this chapter and as described in the contract.

10 (h) *Commencing in the 2002-03 fiscal year, the*
11 *distribution of funds pursuant to this chapter shall be*
12 *made on a quarterly basis in accordance with regulations*
13 *adopted by the department.*

14 1210.6. Each intensive correctional supervision team
15 shall periodically review and evaluate the needs of each
16 offender and his or her performance in the program. The
17 team may modify the level of supervision of an offender,
18 including transferring him or her to regular probation
19 supervision.

20 1210.7. (a) If it is determined after a hearing by the
21 court that an offender in an intensive correctional
22 supervision program has committed an additional public
23 offense or has otherwise violated a condition of probation,
24 the court may revoke intensive correctional supervision
25 and order any disposition authorized by law ~~for a violation~~
26 ~~of the terms and conditions of probation.~~, *including*
27 *remanding the offender to the state prison for the full*
28 *term of the offense for which he or she was committed.*

29 (b) As an additional intermediate sanction a court may
30 order an offender to serve up to 30 days in the county jail.
31 Time served in the county jail shall not be considered to
32 be a part of the prescribed period of intensive community
33 corrections.

34 1210.8. County probation departments are
35 authorized to use funds to contract as necessary for
36 substance abuse treatment, employment and education
37 assistance, mental health counseling, and other necessary
38 services as provided for in this chapter. Priority shall be
39 given to utilizing available and appropriate public agency
40 services. Custody in secure facilities shall be provided by



1 sworn peace officers or correctional officers as defined by
2 state law.

3 1210.9. The board shall evaluate the intensive
4 correctional supervision programs established pursuant
5 to this chapter and report the conclusions of its evaluation
6 to the Legislature by January 1, 2007. The evaluation shall
7 include an analysis of the effectiveness of these programs
8 in reducing prison crowding, recidivism, substance
9 abuse, and state and county corrections costs. The board
10 shall pay for any evaluation performed under this section.

11 1210.10. If any court renders a decision that would
12 have the effect of requiring all counties to participate in
13 the state-local corrections partnership program or if any
14 legislation, regulation, or rule is enacted that has the
15 effect of penalizing counties that do not participate in the
16 program established by this chapter, this chapter shall
17 become inoperative.

18 1210.11. (a) Any county that participates in the
19 program shall have no obligation to continue services for
20 offenders if the state discontinues funding for the
21 program.

22 (b) Any county that participates in the program may
23 reduce the services provided correspondingly with any
24 reduction in state funding, pursuant to a plan which has
25 been approved by the board.

26 1210.12. This chapter shall remain in effect until
27 January 1, 2008, and as of that date is repealed, unless a
28 later enacted statute, which is enacted before January 1,
29 2008, deletes or extends that date.

