

AMENDED IN SENATE APRIL 14, 1999

SENATE BILL

No. 175

Introduced by Senator Rainey
(Coauthors: Senators McPherson, Polanco, and Vasconcellos)

January 12, 1999

An act to amend Section 1903 of the Education Code, to amend Sections 17, 19.2, 2900.5, 4019, 8051, 8052, 8061, and 8080 of, to add Sections 19.3, 4000.2, and 8100 to, and to add Chapter 8.6 (commencing with Section 6140) to Title 7 of Part 3 of the Penal Code, relating to punishment.

LEGISLATIVE COUNSEL'S DIGEST

SB 175, as amended, Rainey. Prison Inmate Population Master Plan.

(1) Under existing law, no person sentenced to confinement in a local correctional facility may be committed to that facility for longer than one year.

This bill would authorize a person who is convicted and sentenced for a nonviolent felony to be placed in a local correctional facility for not more than 35 months, for purposes of treatment, incarceration, and supervision, if the county in which the person is convicted has an approved community-based punishment plan and has executed a contract with the Board of Corrections to place that type of offender. The bill would specify the terms of those contracts. The bill would authorize the board of supervisors of any county to designate a chief correctional administrator and a correctional administrator, as defined by the bill, to

administer community-based punishment programs. Persons who are placed pursuant to a community-based punishment plan would not be given a term of parole.

This bill would declare the intent of the Legislature to appropriate money in the annual Budget Act for the costs of the contracts specified above.

(2) Existing law establishes a correctional medical facility under the jurisdiction of the Department of Corrections to treat mentally disordered, developmentally disabled, or controlled substance addicted prisoners. Existing law also requires the department to establish the standards for pilot projects to contract with private sector health care facilities for the provision of medical, developmental, and mental health services.

This bill would require the department to establish a Medical Detention Program that uses licensed health care facilities for the provision of medical, developmental, and mental health services necessary for the treatment of severely ill, incapacitated, and disabled inmates. The bill also would require the department to establish a Medical Detention Evaluation Panel to make recommendations to the Director of Corrections on inmate eligibility for the program.

(3) Existing law defines “intermediate sanctions” as those punishment options that may be provided by local correctional agencies as alternatives to incarceration in a jail facility.

This bill would change the term to “intermediate punishments” and would add incarceration in road camps and work camps to those types of punishments.

Existing law requires community-based punishment plans to be submitted for annual approval or modification by a county board of supervisors.

This bill instead would require that they be submitted periodically, as determined by the board of supervisors.

(4) This bill would make conforming changes.

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 Prison Inmate Population Master Plan.

3 SEC. 2. The Legislature finds and declares all of the
4 following:

5 (a) The state's prison inmate population is projected to
6 experience an unparalleled increase with the
7 implementation of the "Three Strikes" initiative
8 (Proposition 184) and the continuation of existing
9 sentencing trends.

10 (b) The practice of the imprisonment of new
11 commitments and parole violators in the state prison who
12 serve not more than 35 months offers little opportunity to
13 implement strategies to manage offender behavior and to
14 sustain long-term behavior change that would promote
15 public safety.

16 (c) A decline in local fiscal resources is debilitating
17 local correctional systems that are responsible for county
18 jails and probation, thereby threatening efforts by local
19 corrections to maintain public safety.

20 (d) Alternatives to imprisonment and probation
21 supervision, such as community-based punishment
22 options, are a cost-effective manner in which to maintain
23 public safety and at the same time manage and modify
24 offender behavior. The fiscal responsibility for these
25 options must be shared between the state and each
26 county.

27 (e) State and local corrections should be viewed as an
28 interconnected system that provides an array of
29 appropriate punishment alternatives.

30 SEC. 3. Section 1903 of the Education Code is
31 amended to read:

32 1903. (a) For purposes of attendance, "adult" means
33 any prisoner confined in any county jail, county honor
34 farm, county industrial farm, county or joint county road
35 camp, or community-based punishment program, and
36 who has enrolled in classes or schools authorized by
37 Section 1900.



1 (b) This chapter is applicable to a community-based
2 punishment program.

3 SEC. 4. Section 17 of the Penal Code is amended to
4 read:

5 ~~17. (a) A felony is a crime which is punishable with~~
6 ~~death or by imprisonment in the state prison, or by~~
7 ~~incarceration pursuant to Section 19.3. Every other crime~~
8 ~~or public offense is a misdemeanor except those offenses~~
9 ~~that are classified as infractions.~~

10 (b) ~~When a crime is punishable, in the discretion of the~~
11 ~~court, by imprisonment in the state prison or~~
12 ~~incarceration pursuant to Section 19.3, or by fine or~~
13 ~~imprisonment in a county jail not exceeding one year, it~~
14 ~~is a misdemeanor for all purposes under the following~~
15 ~~circumstances:~~

16 (1) ~~After a judgment imposing a punishment other~~
17 ~~than imprisonment in the state prison or incarceration~~
18 ~~pursuant to Section 19.3.~~

19 (2) ~~When the court, upon committing the defendant~~
20 ~~to the Youth Authority, designates the offense to be a~~
21 ~~misdemeanor.~~

22 (3) ~~When the court grants probation to a defendant~~
23 ~~without imposition of sentence and at the time of~~
24 ~~granting probation, or upon application of the defendant~~
25 ~~or probation officer thereafter, the court declares the~~
26 ~~offense to be a misdemeanor.~~

27 (4) ~~When the prosecuting attorney files in a court~~
28 ~~having jurisdiction over misdemeanor offenses a~~
29 ~~complaint specifying that the offense is a misdemeanor,~~
30 ~~unless the defendant at the time of his or her arraignment~~
31 ~~or plea objects to the offense being made a misdemeanor,~~
32 ~~in which event the complaint shall be amended to charge~~
33 ~~the felony and the case shall proceed on the felony~~
34 ~~complaint.~~

35 (5) ~~When, at or before the preliminary examination or~~
36 ~~prior to filing an order pursuant to Section 872, the~~
37 ~~magistrate determines that the offense is a misdemeanor,~~
38 ~~in which event the case shall proceed as if the defendant~~
39 ~~had been arraigned on a misdemeanor complaint.~~



1 ~~(c) When a defendant is committed to the Youth~~
2 ~~Authority for a crime punishable, in the discretion of the~~
3 ~~court, by imprisonment in the state prison or by fine or~~
4 ~~imprisonment in the county jail, the offense shall, upon~~
5 ~~the discharge of the defendant from the Youth Authority,~~
6 ~~thereafter be deemed a misdemeanor for all purposes.~~

7 ~~(d) A violation of any code section listed in Section 19.8~~
8 ~~is an infraction subject to the procedures described in~~
9 ~~Sections 19.6 and 19.7 when either of the following~~
10 ~~circumstances applies:~~

11 ~~(1) The prosecutor files a complaint charging the~~
12 ~~offense as an infraction unless the defendant, at the time~~
13 ~~he or she is arraigned, after being informed of his or her~~
14 ~~rights, elects to have the case proceed as a misdemeanor.~~

15 ~~(2) The court, with the consent of the defendant,~~
16 ~~determines that the offense is an infraction in which~~
17 ~~event the case shall proceed as if the defendant had been~~
18 ~~arraigned on an infraction complaint.~~

19 *read:*

20 17. (a) A felony is a crime which is punishable with
21 death or by imprisonment in the state prison, *or by*
22 *incarceration pursuant to Section 19.3.* Every other crime
23 or public offense is a misdemeanor except those offenses
24 that are classified as infractions.

25 (b) When a crime is punishable, in the discretion of the
26 court, by imprisonment in the state prison or
27 *incarceration pursuant to Section 19.3, or* by fine or
28 imprisonment in ~~the~~ a county jail *not exceeding one year,*
29 it is a misdemeanor for all purposes under the following
30 circumstances:

31 (1) After a judgment imposing a punishment other
32 than imprisonment in the state prison *or incarceration*
33 *pursuant to Section 19.3.*

34 (2) When the court, upon committing the defendant
35 to the Youth Authority, designates the offense to be a
36 misdemeanor.

37 (3) When the court grants probation to a defendant
38 without imposition of sentence and at the time of
39 granting probation, or ~~on~~ *upon* application of the



1 defendant or probation officer thereafter, the court
2 declares the offense to be a misdemeanor.

3 (4) When the prosecuting attorney files in a court
4 having jurisdiction over misdemeanor offenses a
5 complaint specifying that the offense is a misdemeanor,
6 unless the defendant at the time of his or her arraignment
7 or plea objects to the offense being made a misdemeanor,
8 in which event the complaint shall be amended to charge
9 the felony and the case shall proceed on the felony
10 complaint.

11 (5) When, at or before the preliminary examination or
12 prior to filing an order pursuant to Section 872, the
13 magistrate determines that the offense is a misdemeanor,
14 in which event the case shall proceed as if the defendant
15 had been arraigned on a misdemeanor complaint.

16 (c) When a defendant is committed to the Youth
17 Authority for a crime punishable, in the discretion of the
18 court, by imprisonment in the state prison or by fine or
19 imprisonment in the county jail, the offense shall, upon
20 the discharge of the defendant from the Youth Authority,
21 thereafter be deemed a misdemeanor for all purposes.

22 (d) A violation of any code section listed in Section 19.8
23 is an infraction subject to the procedures described in
24 Sections 19.6 and 19.7 when *either of the following*
25 *circumstances applies*:

26 (1) The prosecutor files a complaint charging the
27 offense as an infraction unless the defendant, at the time
28 he or she is arraigned, after being informed of his or her
29 rights, elects to have the case proceed as a misdemeanor;
30 ~~or~~.

31 (2) The court, with the consent of the defendant,
32 determines that the offense is an infraction in which
33 event the case shall proceed as if the defendant had been
34 arraigned on an infraction complaint.

35 (e) Nothing in this section authorizes a judge to
36 relieve a defendant of the duty to register as a sex
37 offender pursuant to Section 290 if the defendant is
38 charged with an offense for which registration as a sex
39 offender is required pursuant to Section 290, and for
40 which the trier of fact has found the defendant guilty.



1 SEC. 5. Section 19.2 of the Penal Code is amended to
2 read:

3 19.2. Except as provided in Section 19.3, no person
4 sentenced to confinement in a county or city jail, or in a
5 county or joint county penal farm, road camp, work
6 camp, or other county adult detention facility, or
7 committed to the sheriff for placement in any county
8 adult detention facility, on conviction of a misdemeanor,
9 or as a condition of probation upon conviction of either
10 a felony or a misdemeanor, or upon commitment for civil
11 contempt, or upon default in the payment of a fine upon
12 conviction of either a felony or a misdemeanor, or for any
13 reason except upon conviction of more than one offense
14 when consecutive sentences have been imposed, shall be
15 committed for a period in excess of one year. However,
16 the time allowed on parole shall not be considered as a
17 part of the period of confinement.

18 SEC. 6. Section 19.3 is added to the Penal Code, to
19 read:

20 19.3. (a) Any person convicted and sentenced for a
21 felony shall be punished by incarceration in the county
22 *jail* if all of the following conditions apply:

23 (1) The offender has been given a total sentence of not
24 more than 35 months, including all sentences imposed for
25 more than one offense when consecutive sentences have
26 been imposed.

27 (2) The current felony conviction does not subject the
28 offender to, nor does the offender have a criminal record
29 that includes a conviction pursuant to, the provisions of
30 Section 667, 667.51, 667.71, 1170.12, or 1203.066, or an
31 offense listed in subdivision (c) of Section 667.5,
32 subdivision (c) of Section 1192.7, or subdivision (e), in this
33 state or any other state.

34 (3) The offender has no history of escape or attempted
35 escape.

36 (4) The county in which the offender is incarcerated
37 has an approved community-based punishment plan and
38 contract, pursuant to Chapter 2 (commencing with
39 Section 8050) of Title 9 of Part 3.



1 (5) The county in which the offender is incarcerated
2 has agreed to be subject to this section by adoption of a
3 resolution of the board of supervisors.

4 (b) All felons sentenced pursuant to this section shall
5 be placed in the custody of the correctional
6 administrator, as defined in Section 8052, of the county
7 where the sentence was imposed. However, counties may
8 enter into agreements with other counties to incarcerate
9 out-of-county offenders.

10 (c) All felons sentenced pursuant to this section shall
11 be deemed to have served a prior prison term for
12 purposes of sentence enhancements.

13 (d) This section is not subject to the limitation on the
14 period of commitment to a county jail specified in Section
15 19.2.

16 (e) For purposes of paragraph (2) of subdivision (a),
17 the following offenses are included:

18 (1) Manslaughter, in violation of subdivision (b) of
19 Section 192.

20 (2) Gross vehicular manslaughter while intoxicated, in
21 violation of Section 191.5, or vehicular manslaughter, in
22 violation of paragraph (1) or (3) of subdivision (c) of
23 Section 192.

24 (3) Assault with a deadly weapon, in violation of
25 Section 245, 245.3, or 246.

26 (4) Other types of assault and battery offenses, in
27 violation of Section 69, subdivision (a) of Section 217.1,
28 Section 243, 243.1, or 243.3, subdivision (a), (c), or (d) of
29 Section 243.4, Section 244, 273a, 273d, or 273.5, subdivision
30 (e) of Section 273.6, or Section 417.6, 4131.5, or 4501.5 of
31 this code, or Section 2800.2 or 20001 or subdivision (b) of
32 Section 23104 of the Vehicle Code.

33 (5) Rape, in violation of Section 261.5.

34 (6) Kidnapping, in violation of Section 207 or 278.

35 (7) Lewd and lascivious acts with a child, in violation
36 of subdivision (c) of Section 288.

37 (8) Oral copulation, in violation of subdivision (a) or
38 (b) of Section 288a.

39 (9) Sodomy, in violation of paragraph (1) or (2) of
40 subdivision (b) or subdivision (e) of Section 286.



1 (10) Penetration with a foreign object, in violation of
2 subdivision (b), (h), or (i) of Section 289.

3 (11) Other sex offenses in violation of Section 266f,
4 266h, or 285, subdivision (b) of Section 311.2, subdivision
5 (c) of Section 311.4, subdivision (1) of Section 314, or
6 Section 314.2 or 647.6.

7 (12) Burglary of the first degree in violation of
8 subdivision (a) of Section 460.

9 (13) Participation in a criminal street gang in violation
10 of Section 186.22.

11 (14) Arson or attempted arson in violation of Section
12 452 or 455.

13 (15) A violation of the Gun Free School Zone Act in
14 Section 626.9.

15 (16) Escape or failure to return in violation of Section
16 4530 or 4532, or subdivision (a) of Section 1768.7 of the
17 Welfare and Institutions Code.

18 (17) Any offense where the defendant personally
19 possessed or used a firearm in the commission of that
20 offense, or any other firearm offense in violation of
21 Section 12025 or 12031.5, subdivision (a) of Section 12220,
22 or subdivision (b) of Section 12280.

23 (f) As used in this section, “incarceration” includes
24 incarceration, supervision, or treatment, or any
25 combination thereof.

26 (g) If any court renders a decision that would have the
27 effect of requiring all counties to participate in a program
28 pursuant to this section, the provisions of this section shall
29 become inoperative.

30 ~~SEC. 7. Section 2900.5 of the Penal Code, as amended~~
31 ~~by Section 29 of Chapter 1077 of the Statutes of 1996, is~~
32 ~~amended to read:~~

33 ~~2900.5. (a) (1) In all felony and misdemeanor~~
34 ~~convictions, either by plea or by verdict, when the~~
35 ~~defendant has been in custody, including, but not limited~~
36 ~~to, any time spent in a jail, camp, work furlough facility,~~
37 ~~halfway house, rehabilitation facility, hospital, prison,~~
38 ~~juvenile detention facility, similar residential institution,~~
39 ~~or home detention program, all days of custody of the~~
40 ~~defendant, including days served as a condition of~~



1 ~~probation in compliance with a court order, and~~
2 ~~including days credited to the period of confinement~~
3 ~~pursuant to Section 4019, shall be credited upon his or her~~
4 ~~term of imprisonment, or credited to any fine on a~~
5 ~~proportional basis, including, but not limited to, base fines~~
6 ~~and restitution fines, which may be imposed, at the rate~~
7 ~~of not less than thirty dollars (\$30) per day, or more, in the~~
8 ~~discretion of the court imposing the sentence. If the total~~
9 ~~number of days in custody exceeds the number of days of~~
10 ~~the term of imprisonment to be imposed, the entire term~~
11 ~~of imprisonment shall be deemed to have been served. In~~
12 ~~any case where the court has imposed both a prison or jail~~
13 ~~term of imprisonment and a fine, any days to be credited~~
14 ~~to the defendant shall first be applied to the term of~~
15 ~~imprisonment imposed, and thereafter the remaining~~
16 ~~days, if any, shall be applied to the fine on a proportional~~
17 ~~basis, including, but not limited to, base fines and~~
18 ~~restitution fines.~~

19 ~~(2) Notwithstanding, and in addition to, paragraph~~
20 ~~(1), any person convicted of a misdemeanor who has~~
21 ~~been under the custody of the correctional administrator,~~
22 ~~including, custody as provided in paragraph (1) or~~
23 ~~placement in any community-based punishment~~
24 ~~program authorized under Chapter 2 (commencing with~~
25 ~~Section 8050) of Title 9 of Part 3, shall have all days of that~~
26 ~~eustody credited upon his or her term of imprisonment,~~
27 ~~or credited to any fine that may be imposed, as provided~~
28 ~~in paragraph (1). Credit under this paragraph for days in~~
29 ~~eustody shall apply to any mandatory minimum term of~~
30 ~~imprisonment.~~

31 ~~(b) For the purposes of this section, credit shall be~~
32 ~~given only where the custody to be credited is~~
33 ~~attributable to proceedings related to the same conduct~~
34 ~~for which the defendant has been convicted. Credit shall~~
35 ~~be given only once for a single period of custody~~
36 ~~attributable to multiple offenses for which a consecutive~~
37 ~~sentence is imposed.~~

38 ~~(c) For the purposes of this section, “term of~~
39 ~~imprisonment” includes any period of imprisonment~~
40 ~~imposed as a condition of probation or otherwise ordered~~



1 by a court in imposing or suspending the imposition of
2 any sentence, and also includes any term of
3 imprisonment, including any period of imprisonment
4 prior to release on parole and any period of imprisonment
5 and parole, prior to discharge, whether established or
6 fixed by statute, by any court, or by any duly authorized
7 administrative agency.

8 (d) It shall be the duty of the court imposing the
9 sentence to determine the date or dates of any admission
10 to and release from custody prior to sentencing, and the
11 total number of days to be credited pursuant to this
12 section. The total number of days to be credited shall be
13 contained in the abstract of judgment provided for in
14 Section 1213.

15 (e) It shall be the duty of any agency to which a person
16 is committed to apply the credit provided for in this
17 section for the period between the date of sentencing and
18 the date the person is delivered to the agency.

19 (f) If a defendant serves time in a camp, work furlough
20 facility, halfway house, rehabilitation facility, hospital,
21 juvenile detention facility, similar residential facility, or
22 home detention program in lieu of imprisonment in
23 county jail, and the statute under which the defendant is
24 sentenced requires a mandatory minimum period of time
25 in jail, the time spent in these facilities or programs shall
26 qualify as mandatory time in jail.

27 (g) Notwithstanding any other provision of this code
28 as it pertains to the sentencing of convicted offenders,
29 nothing in this section is to be construed as authorizing
30 the sentencing of convicted offenders to any of the
31 facilities or programs mentioned herein.

32 (h) This section shall remain operative until January 1,
33 1999, and as of that date is repealed.

34 ~~SEC. 8.~~

35 *SEC. 7.* Section 2900.5 of the Penal Code, as amended
36 by Section 28 of Chapter 1077 of the Statutes of 1996, is
37 amended to read:

38 2900.5. (a) (1) In all felony and misdemeanor
39 convictions, either by plea or by verdict, when the
40 defendant has been in custody, including, but not limited



1 to, any time spent in a jail, camp, work furlough facility,
2 halfway house, rehabilitation facility, hospital, prison,
3 juvenile detention facility, or similar residential
4 institution, all days of custody of the defendant, including
5 days served as a condition of probation in compliance
6 with a court order, and including days credited to the
7 period of confinement pursuant to Section 4019, shall be
8 credited upon his or her term of imprisonment, or
9 credited to any fine on a proportional basis, including, but
10 not limited to, base fines and restitution fines, which may
11 be imposed, at the rate of not less than thirty dollars (\$30)
12 per day, or more, in the discretion of the court imposing
13 the sentence. If the total number of days in custody
14 exceeds the number of days of the term of imprisonment
15 to be imposed, the entire term of imprisonment shall be
16 deemed to have been served. In any case where the court
17 has imposed both a prison or jail term of imprisonment
18 and a fine, any days to be credited to the defendant shall
19 first be applied to the term of imprisonment imposed, and
20 thereafter the remaining days, if any, shall be applied to
21 the fine on a proportional basis, including, but not limited
22 to, base fines and restitution fines.

23 (2) Notwithstanding, and in addition to, paragraph
24 (1), any person convicted of a misdemeanor who has
25 been under the custody of the correctional administrator,
26 including, custody as provided in paragraph (1) or
27 placement in any community-based punishment
28 program authorized under Chapter 2 (commencing with
29 Section 8050) of Title 9 of Part 3, shall have all days of that
30 custody credited upon his or her term of imprisonment,
31 or credited to any fine that may be imposed, as provided
32 in paragraph (1). Credit under this paragraph for days in
33 custody shall apply to any mandatory minimum term of
34 imprisonment.

35 (b) For the purposes of this section, credit shall be
36 given only where the custody to be credited is
37 attributable to proceedings related to the same conduct
38 for which the defendant has been convicted. Credit shall
39 be given only once for a single period of custody



1 attributable to multiple offenses for which a consecutive
2 sentence is imposed.

3 (c) For the purposes of this section, “term of
4 imprisonment” includes any period of imprisonment
5 imposed as a condition of probation or otherwise ordered
6 by a court in imposing or suspending the imposition of
7 any sentence, and also includes any term of
8 imprisonment, including any period of imprisonment
9 prior to release on parole and any period of imprisonment
10 and parole, prior to discharge, whether established or
11 fixed by statute, by any court, or by any duly authorized
12 administrative agency.

13 (d) It shall be the duty of the court imposing the
14 sentence to determine the date or dates of any admission
15 to, and release from, custody prior to sentencing and the
16 total number of days to be credited pursuant to this
17 section. The total number of days to be credited shall be
18 contained in the abstract of judgment provided for in
19 Section 1213.

20 (e) It shall be the duty of any agency to which a person
21 is committed to apply the credit provided for in this
22 section for the period between the date of sentencing and
23 the date the person is delivered to the agency.

24 (f) Notwithstanding any other provision of this code as
25 it pertains to the sentencing of convicted offenders,
26 nothing in this section is to be construed as authorizing
27 the sentencing of convicted offenders to any of the
28 facilities or programs mentioned herein.

29 (g) This section shall become operative on January 1,
30 1999.

31 ~~SEC. 9.~~

32 *SEC. 8.* Section 4000.2 is added to the Penal Code, to
33 read:

34 4000.2. (a) Notwithstanding any other law, the board
35 of supervisors of any county, by resolution, may designate
36 a chief correctional administrator and a correctional
37 administrator, as defined in Section 8052.

38 (b) Upon adoption of a resolution by the board of
39 supervisors pursuant to subdivision (a), any person
40 convicted of a misdemeanor and sentenced to a period of



1 incarceration in a county jail, including any mandatory
2 minimum sentence, shall be under the legal custody of
3 the correctional administrator.

4 (c) Notwithstanding any other law, the correctional
5 administrator has sole authority for the evaluation,
6 screening, and programming of all misdemeanor
7 offenders sentenced to the custody of the correctional
8 administrator pursuant to this chapter.

9 (d) For purposes of this section, “custody” includes
10 custody as provided in paragraph (2) of subdivision (a)
11 of Section 2900.5 or placement in any community-based
12 punishment program authorized under Chapter 2
13 (commencing with Section 8050) of Title 9 of Part 3.

14 ~~SEC. 10.~~

15 *SEC. 9.* Section 4019 of the Penal Code is amended to
16 read:

17 4019. (a) The provisions of this section shall apply in
18 all of the following cases:

19 (1) When a prisoner is confined in or committed to a
20 county jail, industrial farm, or road camp, or any city jail,
21 industrial farm, or road camp, including all days of
22 custody from the date of arrest to the date on which the
23 serving of the sentence commences, under a judgment of
24 imprisonment, or a fine and imprisonment until the fine
25 is paid in a criminal action or proceeding.

26 (2) When a prisoner is confined in or committed to the
27 county jail, industrial farm, or road camp or any city jail,
28 industrial farm, or road camp as a condition of probation
29 after suspension of imposition of a sentence or suspension
30 of execution of sentence, in a criminal action or
31 proceeding.

32 (3) When a prisoner is confined in or committed to the
33 county jail, industrial farm, or road camp or any city jail,
34 industrial farm, or road camp for a definite period of time
35 for contempt pursuant to a proceeding, other than a
36 criminal action or proceeding.

37 (4) When a prisoner is confined in a county jail,
38 industrial farm, or road camp, or a city jail, industrial
39 farm, or road camp following arrest and prior to the
40 imposition of sentence for a felony conviction.



1 (5) When a prisoner is confined in a county jail,
2 industrial farm, or road camp, or a city jail, industrial
3 farm, or road camp upon a sentence of incarceration at
4 the local level for more than one year but not more than
5 35 months after conviction of a felony in a criminal
6 proceeding.

7 (b) Subject to the provisions of subdivision (d), for
8 each six-day period in which a prisoner is confined in or
9 committed to a facility as specified in this section, one day
10 shall be deducted from his or her period of confinement
11 unless it appears by the record that the prisoner has
12 refused to satisfactorily perform labor as assigned by the
13 sheriff, chief of police, or superintendent of an industrial
14 farm or road camp.

15 (c) For each six-day period in which a prisoner is
16 confined in or committed to a facility as specified in this
17 section, one day shall be deducted from his or her period
18 of confinement unless it appears by the record that the
19 prisoner has not satisfactorily complied with the
20 reasonable rules and regulations established by the
21 sheriff, chief of police, or superintendent of an industrial
22 farm or road camp.

23 (d) Nothing in this section shall be construed to
24 require the sheriff, chief of police, or superintendent of
25 an industrial farm or road camp to assign labor to a
26 prisoner if it appears from the record that the prisoner has
27 refused to satisfactorily perform labor as assigned or that
28 the prisoner has not satisfactorily complied with the
29 reasonable rules and regulations of the sheriff, chief of
30 police, or superintendent of any industrial farm or road
31 camp.

32 (e) No deduction may be made under this section
33 unless the person is committed for a period of six days or
34 longer.

35 (f) It is the intent of the Legislature that if all days are
36 earned under this section, a term of six days will be
37 deemed to have been served for every four days spent in
38 actual custody.

39 ~~SEC. 11.~~



1 SEC. 10. Chapter 8.6 (commencing with Section
2 6140) is added to Title 7 of Part 3 of the Penal Code, to
3 read:

4

5 CHAPTER 8.6. MEDICAL DETENTION PROGRAM

6

7 6140. (a) It is the intent of the Legislature to
8 maximize federal financial participation in health care
9 costs associated with severely ill, incapacitated, and
10 disabled inmates and maintain public safety.

11 (b) As used in this chapter:

12 (1) "Department" means the Department of
13 Corrections.

14 (2) "Director" means the Director of Corrections.

15 (3) "Panel" means the Medical Detention Evaluation
16 Panel.

17 (4) "Program" means the Medical Detention
18 Program.

19 6141. (a) The Department of Corrections shall
20 establish a Medical Detention Program that utilizes
21 licensed health care facilities for the provision of medical,
22 developmental, and mental health services necessary for
23 the treatment of severely ill, incapacitated, and disabled
24 inmates of the state prisons. In addition, the department
25 shall explore using these facilities for housing geriatric,
26 aged, and nonambulatory inmate populations.

27 (b) Services may include comprehensive health
28 services for individuals with medical or rehabilitation
29 needs, chronic diseases or conditions, mental disorders, or
30 developmental disabilities.

31 (c) The department shall develop standards for the
32 program by July 1, 2000, including custody requirements
33 for inmates and inmate eligibility for the program as
34 specified in Section 6143. In developing the program
35 standards, the department shall maximize federal
36 financial participation in providing medical services for
37 eligible individuals.

38 6142. (a) The department shall establish a Medical
39 Detention Evaluation Panel composed of five members
40 with either a medical or correctional background. Three



1 members shall be appointed by the Governor, one
2 member by the Senate Rules Committee, and one
3 member by the Speaker of the Assembly. Each panel
4 member shall serve a four-year term. The terms shall be
5 staggered with two appointees of the Governor serving
6 initial two-year terms. All terms shall commence on
7 January 1, 2000. Members shall be eligible for
8 reappointment. The chair of the panel shall be designated
9 by the Governor.

10 (b) The panel shall make recommendations to the
11 Director of Corrections on inmate eligibility for the
12 program based on department standards.

13 (c) The panel shall meet as necessary for a full and
14 complete study of the cases of all inmates the director has
15 deemed potentially eligible for the Medical Detention
16 Program.

17 6143. (a) In determining custody requirements for
18 the program, the panel and the director shall consider
19 placements that match inmate needs with corresponding
20 facility service levels, security capacity, and ability to
21 provide services in a cost-effective manner. The
22 department shall monitor facility compliance with the
23 custody requirements of the program.

24 (b) In the evaluation of patient eligibility, the panel
25 and the director shall consider the age, commitment
26 status, record while incarcerated, escape risk, infirmity,
27 mobility, medical needs, and need for assistance with
28 daily living of the inmate.

29 6144. The implementation of the program shall not
30 cause the displacement of civil service employees. For
31 purposes of this section, "displacement" includes layoff,
32 demotion, involuntary transfer to a new class or to a new
33 location requiring a change in residence, and time base
34 reductions. "Displacement" does not include changes in
35 shifts or days off, nor reassignment to other positions
36 within the same class and general location.

37 ~~SEC. 12.~~

38 SEC. 11. Section 8051 of the Penal Code is amended
39 to read:



1 8051. The Legislature hereby finds and declares as
2 follows:

3 (a) Community-based punishment programs require
4 a partnership between the state and local government to
5 provide and expand the use of intermediate punishments
6 for specifically targeted offender populations.

7 (b) Community-based programs must operate to
8 punish offenders while at the same time providing
9 opportunities to change behavior.

10 (c) Community-based punishment programs provide
11 appropriate means of managing select offenders but
12 should not be viewed as the only solution to prison
13 overcrowding.

14 (d) Community-based punishment programs target
15 prison-bound and jail-bound nonviolent offenders
16 because this group poses the least risk to the public and
17 is the most amenable to the individualized programming
18 and services offered by community-based programs.

19 (e) Community-based punishment programs
20 emphasize reducing local jail populations, thereby
21 making jail space available for new commitments, parole
22 violators, and probation violators who are now being sent
23 to jail and nonviolent felons who have already been sent
24 to prison for short periods of time.

25 (f) Community-based punishment programs must be
26 financed from a consistent, reliable, and separate funding
27 source.

28 (g) Community-based punishment programs should
29 be expanded incrementally with a variety of pilot
30 approaches tested to determine their effectiveness prior
31 to expansion.

32 (h) In order to effectively utilize available resources,
33 to ensure appropriate management of the local offender
34 population, each county utilizing community-based
35 punishment programs must implement a locally
36 coordinated planning process.

37 (i) Since successful community-based punishment
38 programs are dependent on the coordinated efforts of,
39 and successful working relationships between, state and
40 local agencies, the Board of Corrections is the logical state



1 agency to coordinate community punishment efforts
2 because of its extensive experience with collaborative
3 state and local programs.

4 ~~SEC. 13.~~

5 *SEC. 12.* Section 8052 of the Penal Code is amended
6 to read:

7 8052. As used in this chapter, the following definitions
8 shall apply:

9 (a) “Board” means the Board of Corrections, unless
10 otherwise indicated.

11 (b) “Chief correctional administrator” means the
12 sheriff, chief probation officer, or director of the county
13 department of corrections, who is designated by the
14 board of supervisors to have administrative responsibility
15 for the community-based punishment plan and oversight
16 responsibility for contracts entered into under Section
17 8100.

18 “Correctional administrator” means the sheriff, chief
19 probation officer, or director of the local corrections
20 agency who has responsibility for county corrections
21 operations and programs, including a community-based
22 punishment program.

23 (c) “Community-based punishment” means a
24 partnership between the state and a county or a
25 collaboration of counties to manage and provide
26 correctional services, especially those services considered
27 to be intermediate punishments at the local level of
28 government for targeted, select offender populations
29 pursuant to the community corrections plan of a county
30 or a collaboration of counties.

31 (d) “Community-based punishment plan” means the
32 proposal for a community-based punishment program
33 promulgated by a county or a collaboration of counties
34 that has been developed by the chief correctional
35 administrator, in cooperation with the district attorney,
36 public defender, and other concerned community
37 representatives designated by the board of supervisors, to
38 address correctional needs in that county or collaboration
39 of counties.



1 (e) “Intermediate punishments” means punishment
2 options and sanctions in addition to or in lieu of
3 incarceration in prison or jail or traditional routine
4 probation supervision. Intermediate punishments may
5 be provided by correctional agencies directly or through
6 community-based public or private correctional service
7 providers, and include, but are not limited to, the
8 following:

9 (1) Short-term “shock” incarceration in either jail or
10 prison, for a period of not more than 90 days.

11 (2) Incarceration in a “boot camp” facility, road camp,
12 or work camp.

13 (3) Intensive supervision.

14 (4) Home detention with electronic monitoring.

15 (5) Mandatory community service.

16 (6) Restorative justice programs such as mandatory
17 victim restitution and victim-offender reconciliation.

18 (7) Work, training, or education in a furlough program
19 pursuant to Section 1208.

20 (8) Work, in lieu of confinement, in a work release
21 program pursuant to Section 4024.2.

22 (9) Day reporting centers.

23 (10) Mandatory residential or nonresidential
24 substance abuse treatment programs established
25 pursuant to Chapter 9.4 (commencing with Section 6240)
26 of Title 7.

27 (11) Mandatory random drug testing.

28 (12) Mother-infant care programs.

29 (13) Community-based residential programs offering
30 structure, supervision, drug treatment, alcohol
31 treatment, literacy programming, employment
32 counseling, psychological counseling, or any combination
33 of these and other interventions.

34 (f) “Nonviolent offender” means a person who is not
35 currently charged with a violent crime, as defined in
36 Section 667.5, or with a crime listed in subdivision (e) of
37 Section 19.3, does not have a criminal record that includes
38 any of those crimes, and does not pose a risk to the
39 community, as determined by the correctional
40 administrator.



1 ~~SEC. 14.~~

2 *SEC. 13.* Section 8061 of the Penal Code is amended
3 to read:

4 8061. The board, in collaboration with state, local, and
5 community-based departments, agencies, and
6 organizations shall do the following:

7 (a) Describe the parameters of effective
8 community-based punishment programs and the
9 relationship between the state and local jurisdictions in
10 meeting the purposes of this chapter.

11 (b) Develop and implement a process by which local
12 jurisdictions are selected and can participate in pilot
13 efforts initiated under this chapter.

14 (c) Develop and implement the process by which
15 counties participating in accordance with this chapter
16 submit their community-based punishment program
17 proposals for approval, modification, or both.

18 (d) Design and implement a process for annually
19 awarding funds to counties participating pursuant to this
20 chapter to implement their community-based
21 punishment program proposals, and administer and
22 monitor the receipt, expenditure, and reporting of those
23 funds by participating counties.

24 (e) Provide technical assistance and support to
25 counties and community correctional administrators in
26 determining whether to participate in community-based
27 punishment programs, and in either developing or
28 annually updating their punishment programs.

29 (f) Facilitate the sharing of information among
30 counties and between county and state agencies relative
31 to community-based punishment approaches and
32 programs being initiated or already in existence,
33 strengths and weaknesses of specific programs, specific
34 offender groups appropriate for different programs,
35 results of program evaluations and other data, and
36 anecdotal material that may assist in addressing the
37 purposes of this chapter.

38 (g) Adopt and periodically revise regulations
39 necessary to implement this chapter.



1 (h) Design and provide for regular and rigorous
2 evaluation of the community-based punishment
3 programming undertaken pursuant to approved
4 community-based punishment plans.

5 (i) Design and provide for analysis and evaluation of
6 the pilot *program* and any subsequent implementation of
7 this chapter, with areas of analysis to include, at a
8 minimum, the following:

9 (1) The relationship between the board and counties
10 or collaborations of counties submitting county
11 community-based punishment plans.

12 (2) The effectiveness of this chapter in encouraging
13 the use of intermediate as well as traditional sanctions.

14 (3) The categories of offenders most suitable for
15 specific intermediate punishments, various aspects of
16 community-based punishment programming, or both.

17 (4) The effectiveness of the programs implemented
18 pursuant to this chapter in maintaining public safety.

19 (5) The cost-effectiveness of the programs
20 implemented pursuant to this chapter.

21 (6) The effect of the programs implemented pursuant
22 to this chapter on prison, jail, and Department of the
23 Youth Authority populations.

24 (j) On January 1, 1997, and annually thereafter, the
25 board shall, upon request, provide the Legislature with a
26 progress report on the status of the implementation of
27 this chapter.

28 ~~SEC. 15.~~

29 *SEC. 14.* Section 8080 of the Penal Code is amended
30 to read:

31 8080. Each county or collaboration of counties
32 electing to operate a community-based punishment
33 program under this chapter shall develop a
34 community-based punishment plan describing the
35 continuum of sanctions and services comprising its
36 program. The plan shall be developed pursuant to
37 guidelines established by the board and shall be updated
38 periodically, as determined by the board. The plan shall
39 describe, at a minimum, the following:



1 (a) System design and administration, lines of
2 authority, and responsible personnel, including, but not
3 limited to, the chief correctional administrator and other
4 relevant individuals.

5 (b) The extent and nature of citizen involvement in
6 the development and promulgation of the
7 community-based punishment plan, including, but not
8 limited to, the following:

9 (1) Consultation with a citizens' advisory committee
10 formed for the purpose of providing community input
11 into the development and promulgation of a
12 community-based punishment plan.

13 (2) Consultation with selected community leaders.

14 (3) Input derived from citizen testimony at public
15 hearings or town hall meetings.

16 (c) The number and kind of offenders to participate in
17 community-based punishment programs.

18 (d) Eligibility requirements.

19 (e) How offenders, including those coming from the
20 courts and those who are probation and parole violators,
21 are to be selected to participate.

22 (f) Community-based punishment program
23 components, including, for example, which punishment
24 options, intermediate punishments, treatment options, or
25 combinations are to be developed and used for which
26 offenders.

27 (g) Responsibilities and relationships, including, but
28 not limited to, the elements of community-based
29 punishment programs that are administered by the
30 sheriff's department, the probation department, or
31 parole personnel, and when and how offenders are to be
32 programmed.

33 (h) Criteria for transferring offenders from more
34 restrictive to less restrictive sanctions.

35 (i) Criteria for disciplinary interventions, imposition
36 of stricter sanctions, or return to prison or jail, when
37 necessary.

38 (j) Anticipated costs and funding needs.

39 ~~SEC. 16.~~



1 SEC. 15. Section 8100 is added to the Penal Code, to
2 read:

3 8100. (a) Section 19.3 and this section shall apply only
4 to a county that has executed a contract with the Board
5 of Corrections that establishes the conditions under
6 which the parties will implement Section 19.3 and this
7 section. In order to contract to incarcerate prisoners
8 under the terms of Section 19.3, a county shall develop a
9 community-based punishment plan pursuant to this
10 chapter that is approved by the board. The contract shall
11 specify which types of prisoners, categorized by offense
12 committed and by length of sentence, the county will
13 incarcerate, from among those sentenced to a term of not
14 more than 18 months, not more than 24 months, or not
15 more than 35 months in the state prison. Those choices
16 shall be specified in the contract and shall result in the
17 county having to accept all prisoners within those
18 categories. The contract also shall specify the current
19 average cost of incarcerating felons in the state prison, for
20 purposes of subdivision (c).

21 (b) The board shall develop criteria for the transfer of
22 custody of prisoners committed to a local correctional
23 facility pursuant to a contract, who subsequently are
24 found to be inappropriate for placement at the local level
25 according to the terms of the contract.

26 (c) From moneys appropriated by the Legislature, the
27 board shall reimburse any contracting county for felons
28 who are committed to a jail or other local correctional
29 facility pursuant to Section 19.3, in an amount that does
30 not exceed the ~~average~~ cost of incarcerating felons *of*
31 *similar classification* in the state prison, as specified in the
32 contract.

33 (d) No state money shall be encumbered by a contract
34 with a county, nor shall state money be released to a
35 county, until the conditions of this section have been
36 fulfilled by the county.

37 (e) Prisoners sentenced to imprisonment in a county
38 jail for more than one year but not more than 35 months
39 who are committed to a jail or other local correctional
40 facility shall be subject to the rules and regulations of the



1 facility in which they are confined and are not under the
2 legal custody or jurisdiction of the Department of
3 Corrections.

4 (f) Notwithstanding Chapter 8 (commencing with
5 Section 3000) of Title 1 of Part 3, a person to whom this
6 section applies who commits a crime after January 1, 2000,
7 shall not be given a term of parole after being
8 incarcerated pursuant to Section 19.3.

9 (g) As used in this section, “incarceration” includes
10 incarceration, supervision, treatment, or any
11 combination thereof.

12 (h) If any court renders a decision that would have the
13 effect of requiring all counties to participate in a program
14 pursuant to this section, the provisions of this section shall
15 become inoperative.

16 (i) It is the intent of the Legislature that the provisions
17 of this section be phased in over three years, with funds
18 being appropriated to the Board of Corrections in the
19 annual Budget Act, to be used for the costs of contracts
20 with counties, as follows:

21 (1) For the 1999–2000 fiscal year, twenty million
22 dollars (\$20,000,000).

23 (2) For the 2000–01 fiscal year, sixty million dollars
24 (\$60,000,000).

25 (3) For the 2001–02 fiscal year, one hundred twenty
26 million dollars (\$120,000,000).

