

AMENDED IN SENATE MAY 17, 1999

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, *and the board makes a finding that incarceration of felons in a county jail in that county is either cost neutral or*

a savings to the state when compared to the cost of incarcerating felons of similar classification in state prison. 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

1 camp, or community-based punishment program, and
2 who has enrolled in classes or schools authorized by
3 Section 1900.

4 (b) This chapter is applicable to a community-based
5 punishment program.

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

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

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

19 (1) After a judgment imposing a punishment other
20 than imprisonment in the state prison or incarceration
21 pursuant to Section 19.3.

22 (2) When the court, upon committing the defendant
23 to the Youth Authority, designates the offense to be a
24 misdemeanor.

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

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

38 (5) When, at or before the preliminary examination or
39 prior to filing an order pursuant to Section 872, the
40 magistrate determines that the offense is a misdemeanor,



1 in which event the case shall proceed as if the defendant
2 had been arraigned on a misdemeanor complaint.

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

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

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

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

21 (e) Nothing in this section authorizes a judge to
22 relieve a defendant of the duty to register as a sex
23 offender pursuant to Section 290 if the defendant is
24 charged with an offense for which registration as a sex
25 offender is required pursuant to Section 290, and for
26 which the trier of fact has found the defendant guilty.

27 SEC. 5. Section 19.2 of the Penal Code is amended to
28 read:

29 19.2. Except as provided in Section 19.3, no person
30 sentenced to confinement in a county or city jail, or in a
31 county or joint county penal farm, road camp, work
32 camp, or other county adult detention facility, or
33 committed to the sheriff for placement in any county
34 adult detention facility, on conviction of a misdemeanor,
35 or as a condition of probation upon conviction of either
36 a felony or a misdemeanor, or upon commitment for civil
37 contempt, or upon default in the payment of a fine upon
38 conviction of either a felony or a misdemeanor, or for any
39 reason except upon conviction of more than one offense
40 when consecutive sentences have been imposed, shall be

1 committed for a period in excess of one year. However,
2 the time allowed on parole shall not be considered as a
3 part of the period of confinement.

4 SEC. 6. Section 19.3 is added to the Penal Code, to
5 read:

6 19.3. (a) Any person convicted and sentenced for a
7 felony shall be punished by incarceration in the county
8 jail if all of the following conditions apply:

9 (1) The offender has been given a total sentence of not
10 more than 35 months, including all sentences imposed for
11 more than one offense when consecutive sentences have
12 been imposed.

13 (2) The current felony conviction does not subject the
14 offender to, nor does the offender have a criminal record
15 that includes a conviction pursuant to, the provisions of
16 Section 667, 667.51, 667.71, 1170.12, or 1203.066, or an
17 offense listed in subdivision (c) of Section 667.5,
18 subdivision (c) of Section 1192.7, or subdivision (e), in this
19 state or any other state.

20 (3) The offender has no history of escape or attempted
21 escape.

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

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

29 (b) All felons sentenced pursuant to this section shall
30 be placed in the custody of the correctional
31 administrator, as defined in Section 8052, of the county
32 where the sentence was imposed. However, counties may
33 enter into agreements with other counties to incarcerate
34 out-of-county offenders.

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

38 (d) This section is not subject to the limitation on the
39 period of commitment to a county jail specified in Section
40 19.2.



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

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

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

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

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

(5) Rape, in violation of Section 261.5.

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

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

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

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

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

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

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

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

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

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

1 (16) Escape or failure to return in violation of Section
2 4530 or 4532, or subdivision (a) of Section 1768.7 of the
3 Welfare and Institutions Code.

4 (17) Any offense where the defendant personally
5 possessed or used a firearm in the commission of that
6 offense, or any other firearm offense in violation of
7 Section 12025 or 12031.5, subdivision (a) of Section 12220,
8 or subdivision (b) of Section 12280.

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

12 (g) 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 SEC. 7. Section 2900.5 of the Penal Code, as amended
17 by Section 28 of Chapter 1077 of the Statutes of 1996, is
18 amended to read:

19 2900.5. (a) (1) In all felony and misdemeanor
20 convictions, either by plea or by verdict, when the
21 defendant has been in custody, including, but not limited
22 to, any time spent in a jail, camp, work furlough facility,
23 halfway house, rehabilitation facility, hospital, prison,
24 juvenile detention facility, or similar residential
25 institution, all days of custody of the defendant, including
26 days served as a condition of probation in compliance
27 with a court order, and including days credited to the
28 period of confinement pursuant to Section 4019, shall be
29 credited upon his or her term of imprisonment, or
30 credited to any fine on a proportional basis, including, but
31 not limited to, base fines and restitution fines, which may
32 be imposed, at the rate of not less than thirty dollars (\$30)
33 per day, or more, in the discretion of the court imposing
34 the sentence. If the total number of days in custody
35 exceeds the number of days of the term of imprisonment
36 to be imposed, the entire term of imprisonment shall be
37 deemed to have been served. In any case where the court
38 has imposed both a prison or jail term of imprisonment
39 and a fine, any days to be credited to the defendant shall
40 first be applied to the term of imprisonment imposed, and

1 thereafter the remaining days, if any, shall be applied to
2 the fine on a proportional basis, including, but not limited
3 to, base fines and restitution fines.

4 (2) Notwithstanding, and in addition to, paragraph
5 (1), any person convicted of a misdemeanor who has
6 been under the custody of the correctional administrator,
7 including, custody as provided in paragraph (1) or
8 placement in any community-based punishment
9 program authorized under Chapter 2 (commencing with
10 Section 8050) of Title 9 of Part 3, shall have all days of that
11 custody credited upon his or her term of imprisonment,
12 or credited to any fine that may be imposed, as provided
13 in paragraph (1). Credit under this paragraph for days in
14 custody shall apply to any mandatory minimum term of
15 imprisonment.

16 (b) For the purposes of this section, credit shall be
17 given only where the custody to be credited is
18 attributable to proceedings related to the same conduct
19 for which the defendant has been convicted. Credit shall
20 be given only once for a single period of custody
21 attributable to multiple offenses for which a consecutive
22 sentence is imposed.

23 (c) For the purposes of this section, “term of
24 imprisonment” includes any period of imprisonment
25 imposed as a condition of probation or otherwise ordered
26 by a court in imposing or suspending the imposition of
27 any sentence, and also includes any term of
28 imprisonment, including any period of imprisonment
29 prior to release on parole and any period of imprisonment
30 and parole, prior to discharge, whether established or
31 fixed by statute, by any court, or by any duly authorized
32 administrative agency.

33 (d) It shall be the duty of the court imposing the
34 sentence to determine the date or dates of any admission
35 to, and release from, custody prior to sentencing and the
36 total number of days to be credited pursuant to this
37 section. The total number of days to be credited shall be
38 contained in the abstract of judgment provided for in
39 Section 1213.

1 (e) It shall be the duty of any agency to which a person
2 is committed to apply the credit provided for in this
3 section for the period between the date of sentencing and
4 the date the person is delivered to the agency.

5 (f) Notwithstanding any other provision of this code as
6 it pertains to the sentencing of convicted offenders,
7 nothing in this section is to be construed as authorizing
8 the sentencing of convicted offenders to any of the
9 facilities or programs mentioned herein.

10 (g) This section shall become operative on January 1,
11 1999.

12 SEC. 8. Section 4000.2 is added to the Penal Code, to
13 read:

14 4000.2. (a) Notwithstanding any other law, the board
15 of supervisors of any county, by resolution, may designate
16 a chief correctional administrator and a correctional
17 administrator, as defined in Section 8052.

18 (b) Upon adoption of a resolution by the board of
19 supervisors pursuant to subdivision (a), any person
20 convicted of a misdemeanor and sentenced to a period of
21 incarceration in a county jail, including any mandatory
22 minimum sentence, shall be under the legal custody of
23 the correctional administrator.

24 (c) Notwithstanding any other law, the correctional
25 administrator has sole authority for the evaluation,
26 screening, and programming of all misdemeanor
27 offenders sentenced to the custody of the correctional
28 administrator pursuant to this chapter.

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

34 SEC. 9. Section 4019 of the Penal Code is amended to
35 read:

36 4019. (a) The provisions of this section shall apply in
37 all of the following cases:

38 (1) When a prisoner is confined in or committed to a
39 county jail, industrial farm, or road camp, or any city jail,
40 industrial farm, or road camp, including all days of

1 custody from the date of arrest to the date on which the
2 serving of the sentence commences, under a judgment of
3 imprisonment, or a fine and imprisonment until the fine
4 is paid in a criminal action or proceeding.

5 (2) When a prisoner is confined in or committed to the
6 county jail, industrial farm, or road camp or any city jail,
7 industrial farm, or road camp as a condition of probation
8 after suspension of imposition of a sentence or suspension
9 of execution of sentence, in a criminal action or
10 proceeding.

11 (3) When a prisoner is confined in or committed to the
12 county jail, industrial farm, or road camp or any city jail,
13 industrial farm, or road camp for a definite period of time
14 for contempt pursuant to a proceeding, other than a
15 criminal action or proceeding.

16 (4) When a prisoner is confined in a county jail,
17 industrial farm, or road camp, or a city jail, industrial
18 farm, or road camp following arrest and prior to the
19 imposition of sentence for a felony conviction.

20 (5) When a prisoner is confined in a county jail,
21 industrial farm, or road camp, or a city jail, industrial
22 farm, or road camp upon a sentence of incarceration at
23 the local level for more than one year but not more than
24 35 months after conviction of a felony in a criminal
25 proceeding.

26 (b) Subject to the provisions of subdivision (d), for
27 each six-day period in which a prisoner is confined in or
28 committed to a facility as specified in this section, one day
29 shall be deducted from his or her period of confinement
30 unless it appears by the record that the prisoner has
31 refused to satisfactorily perform labor as assigned by the
32 sheriff, chief of police, or superintendent of an industrial
33 farm or road camp.

34 (c) For each six-day period in which a prisoner is
35 confined in or committed to a facility as specified in this
36 section, one day shall be deducted from his or her period
37 of confinement unless it appears by the record that the
38 prisoner has not satisfactorily complied with the
39 reasonable rules and regulations established by the

1 sheriff, chief of police, or superintendent of an industrial
2 farm or road camp.

3 (d) Nothing in this section shall be construed to
4 require the sheriff, chief of police, or superintendent of
5 an industrial farm or road camp to assign labor to a
6 prisoner if it appears from the record that the prisoner has
7 refused to satisfactorily perform labor as assigned or that
8 the prisoner has not satisfactorily complied with the
9 reasonable rules and regulations of the sheriff, chief of
10 police, or superintendent of any industrial farm or road
11 camp.

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

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

19 SEC. 10. Chapter 8.6 (commencing with Section
20 6140) is added to Title 7 of Part 3 of the Penal Code, to
21 read:

22

23 CHAPTER 8.6. MEDICAL DETENTION PROGRAM

24

25 6140. (a) It is the intent of the Legislature to
26 maximize federal financial participation in health care
27 costs associated with severely ill, incapacitated, and
28 disabled inmates and maintain public safety.

29 (b) As used in this chapter:

30 (1) "Department" means the Department of
31 Corrections.

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

33 (3) "Panel" means the Medical Detention Evaluation
34 Panel.

35 (4) "Program" means the Medical Detention
36 Program.

37 6141. (a) The Department of Corrections shall
38 establish a Medical Detention Program that utilizes
39 licensed health care facilities for the provision of medical,
40 developmental, and mental health services necessary for



1 the treatment of severely ill, incapacitated, and disabled
2 inmates of the state prisons. In addition, the department
3 shall explore using these facilities for housing geriatric,
4 aged, and nonambulatory inmate populations.

5 (b) Services may include comprehensive health
6 services for individuals with medical or rehabilitation
7 needs, chronic diseases or conditions, mental disorders, or
8 developmental disabilities.

9 (c) The department shall develop standards for the
10 program by July 1, 2000, including custody requirements
11 for inmates and inmate eligibility for the program as
12 specified in Section 6143. In developing the program
13 standards, the department shall maximize federal
14 financial participation in providing medical services for
15 eligible individuals.

16 6142. (a) The department shall establish a Medical
17 Detention Evaluation Panel composed of five members
18 with either a medical or correctional background. Three
19 members shall be appointed by the Governor, one
20 member by the Senate Rules Committee, and one
21 member by the Speaker of the Assembly. Each panel
22 member shall serve a four-year term. The terms shall be
23 staggered with two appointees of the Governor serving
24 initial two-year terms. All terms shall commence on
25 January 1, 2000. Members shall be eligible for
26 reappointment. The chair of the panel shall be designated
27 by the Governor.

28 (b) The panel shall make recommendations to the
29 Director of Corrections on inmate eligibility for the
30 program based on department standards.

31 (c) The panel shall meet as necessary for a full and
32 complete study of the cases of all inmates the director has
33 deemed potentially eligible for the Medical Detention
34 Program.

35 6143. (a) In determining custody requirements for
36 the program, the panel and the director shall consider
37 placements that match inmate needs with corresponding
38 facility service levels, security capacity, and ability to
39 provide services in a cost-effective manner. The

1 department shall monitor facility compliance with the
2 custody requirements of the program.

3 (b) In the evaluation of patient eligibility, the panel
4 and the director shall consider the age, commitment
5 status, record while incarcerated, escape risk, infirmity,
6 mobility, medical needs, and need for assistance with
7 daily living of the inmate.

8 6144. The implementation of the program shall not
9 cause the displacement of civil service employees. For
10 purposes of this section, “displacement” includes layoff,
11 demotion, involuntary transfer to a new class or to a new
12 location requiring a change in residence, and time base
13 reductions. “Displacement” does not include changes in
14 shifts or days off, nor reassignment to other positions
15 within the same class and general location.

16 SEC. 11. Section 8051 of the Penal Code is amended
17 to read:

18 8051. The Legislature hereby finds and declares as
19 follows:

20 (a) Community-based punishment programs require
21 a partnership between the state and local government to
22 provide and expand the use of intermediate punishments
23 for specifically targeted offender populations.

24 (b) Community-based programs must operate to
25 punish offenders while at the same time providing
26 opportunities to change behavior.

27 (c) Community-based punishment programs provide
28 appropriate means of managing select offenders but
29 should not be viewed as the only solution to prison
30 overcrowding.

31 (d) Community-based punishment programs target
32 prison-bound and jail-bound nonviolent offenders
33 because this group poses the least risk to the public and
34 is the most amenable to the individualized programming
35 and services offered by community-based programs.

36 (e) Community-based punishment programs
37 emphasize reducing local jail populations, thereby
38 making jail space available for new commitments, parole
39 violators, and probation violators who are now being sent



1 to jail and nonviolent felons who have already been sent
2 to prison for short periods of time.

3 (f) Community-based punishment programs must be
4 financed from a consistent, reliable, and separate funding
5 source.

6 (g) Community-based punishment programs should
7 be expanded incrementally with a variety of pilot
8 approaches tested to determine their effectiveness prior
9 to expansion.

10 (h) In order to effectively utilize available resources,
11 to ensure appropriate management of the local offender
12 population, each county utilizing community-based
13 punishment programs must implement a locally
14 coordinated planning process.

15 (i) Since successful community-based punishment
16 programs are dependent on the coordinated efforts of,
17 and successful working relationships between, state and
18 local agencies, the Board of Corrections is the logical state
19 agency to coordinate community punishment efforts
20 because of its extensive experience with collaborative
21 state and local programs.

22 SEC. 12. Section 8052 of the Penal Code is amended
23 to read:

24 8052. As used in this chapter, the following definitions
25 shall apply:

26 (a) “Board” means the Board of Corrections, unless
27 otherwise indicated.

28 (b) “Chief correctional administrator” means the
29 sheriff, chief probation officer, or director of the county
30 department of corrections, who is designated by the
31 board of supervisors to have administrative responsibility
32 for the community-based punishment plan and oversight
33 responsibility for contracts entered into under Section
34 8100.

35 “Correctional administrator” means the sheriff, chief
36 probation officer, or director of the local corrections
37 agency who has responsibility for county corrections
38 operations and programs, including a community-based
39 punishment program.

1 (c) “Community-based punishment” means a
2 partnership between the state and a county or a
3 collaboration of counties to manage and provide
4 correctional services, especially those services considered
5 to be intermediate punishments at the local level of
6 government for targeted, select offender populations
7 pursuant to the community corrections plan of a county
8 or a collaboration of counties.

9 (d) “Community-based punishment plan” means the
10 proposal for a community-based punishment program
11 promulgated by a county or a collaboration of counties
12 that has been developed by the chief correctional
13 administrator, in cooperation with the district attorney,
14 public defender, and other concerned community
15 representatives designated by the board of supervisors, to
16 address correctional needs in that county or collaboration
17 of counties.

18 (e) “Intermediate punishments” means punishment
19 options and sanctions in addition to or in lieu of
20 incarceration in prison or jail or traditional routine
21 probation supervision. Intermediate punishments may
22 be provided by correctional agencies directly or through
23 community-based public or private correctional service
24 providers, and include, but are not limited to, the
25 following:

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

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

30 (3) Intensive supervision.

31 (4) Home detention with electronic monitoring.

32 (5) Mandatory community service.

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

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

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

39 (9) Day reporting centers.

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

(11) Mandatory random drug testing.

(12) Mother-infant care programs.

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

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

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

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

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

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

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

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

1 (e) Provide technical assistance and support to
2 counties and community correctional administrators in
3 determining whether to participate in community-based
4 punishment programs, and in either developing or
5 annually updating their punishment programs.

6 (f) Facilitate the sharing of information among
7 counties and between county and state agencies relative
8 to community-based punishment approaches and
9 programs being initiated or already in existence,
10 strengths and weaknesses of specific programs, specific
11 offender groups appropriate for different programs,
12 results of program evaluations and other data, and
13 anecdotal material that may assist in addressing the
14 purposes of this chapter.

15 (g) Adopt and periodically revise regulations
16 necessary to implement this chapter.

17 (h) Design and provide for regular and rigorous
18 evaluation of the community-based punishment
19 programming undertaken pursuant to approved
20 community-based punishment plans.

21 (i) Design and provide for analysis and evaluation of
22 the pilot program and any subsequent implementation of
23 this chapter, with areas of analysis to include, at a
24 minimum, the following:

25 (1) The relationship between the board and counties
26 or collaborations of counties submitting county
27 community-based punishment plans.

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

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

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

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

37 (6) The effect of the programs implemented pursuant
38 to this chapter on prison, jail, and Department of the
39 Youth Authority populations.

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

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

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

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

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

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

(2) Consultation with selected community leaders.

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

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

(d) Eligibility requirements.

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

(f) Community-based punishment program components, including, for example, which punishment options, intermediate punishments, treatment options, or

1 combinations are to be developed and used for which
2 offenders.

3 (g) Responsibilities and relationships, including, but
4 not limited to, the elements of community-based
5 punishment programs that are administered by the
6 sheriff's department, the probation department, or
7 parole personnel, and when and how offenders are to be
8 programmed.

9 (h) Criteria for transferring offenders from more
10 restrictive to less restrictive sanctions.

11 (i) Criteria for disciplinary interventions, imposition
12 of stricter sanctions, or return to prison or jail, when
13 necessary.

14 (j) Anticipated costs and funding needs.

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

17 8100. (a) Section 19.3 and this section shall apply only
18 to a county that has executed a contract with the Board
19 of Corrections that establishes the conditions under
20 which the parties will implement Section 19.3 and this
21 section. In order to contract to incarcerate prisoners
22 under the terms of Section 19.3, a county shall develop a
23 community-based punishment plan pursuant to this
24 chapter that is approved by the board. The contract shall
25 specify which types of prisoners, categorized by offense
26 committed and by length of sentence, the county will
27 incarcerate, from among those sentenced to a term of not
28 more than 18 months, not more than 24 months, or not
29 more than 35 months in the state prison. Those choices
30 shall be specified in the contract and shall result in the
31 county having to accept all prisoners within those
32 categories. The contract also shall specify the current
33 average cost of incarcerating felons in the state prison, for
34 purposes of subdivision (c).

35 (b) The board shall develop criteria for the transfer of
36 custody of prisoners committed to a local correctional
37 facility pursuant to a contract, who subsequently are
38 found to be inappropriate for placement at the local level
39 according to the terms of the contract.



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

(d) No state money shall be encumbered by a contract with a county, nor shall state money be released to a county, until *the board makes a finding that incarceration of felons in a county jail in that county pursuant to Section 19.3 is either cost neutral or a savings to the state when compared to the cost of incarcerating felons of similar classification in state prison, and* the conditions of this section have been fulfilled by the county.

(e) Prisoners sentenced to imprisonment in a county jail for more than one year but not more than 35 months who are committed to a jail or other local correctional facility shall be subject to the rules and regulations of the facility in which they are confined and are not under the legal custody or jurisdiction of the Department of Corrections.

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

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

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

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

- 1 (1) For the 1999–2000 fiscal year, twenty million
- 2 dollars (\$20,000,000).
- 3 (2) For the 2000–01 fiscal year, sixty million dollars
- 4 (\$60,000,000).
- 5 (3) For the 2001–02 fiscal year, one hundred twenty
- 6 million dollars (\$120,000,000).

