



**For Informational Purposes**

**(916) 445-4950**

July 15, 2011

## **2011 Public Safety Realignment**

*The cornerstone of California's solution to reduce overcrowding, costs, and recidivism*

Earlier this year, Governor Edmund G. Brown Jr. signed Assembly Bill (AB) 109 and AB 117, historic legislation that will enable California to close the revolving door of low-level inmates cycling in and out of state prisons. It is the cornerstone of California's solution for reducing the number of inmates in the state's 33 prisons to 137.5 percent design capacity by May 24, 2013, as ordered by the U.S. Supreme Court.

All provisions of AB 109 and AB 117 are prospective and implementation of the 2011 Realignment Legislation will begin October 1, 2011. **No inmates currently in state prison will be transferred to county jails or released early.**

Governor Brown also signed multiple trailer bills to ensure the 2011 Realignment secured proper funding before implementation could go into effect.

The 2011 Realignment is funded with a dedicated portion of state sales tax revenue and Vehicle License Fees (VLF) outlined in trailer bills AB 118 and SB 89. The latter provides revenue to counties for local public safety programs and the former establishes the Local Revenue Fund 2011 (Fund) for counties to receive the revenues and appropriate funding for 2011 Public Safety Realignment.

### **Funding of Realignment**

The following trailer bills were signed to secure sufficient funding for counties:

- AB 111
  - Gives counties additional flexibility to access funding to increase local jail capacity for the purpose of implementing Realignment.
- AB 94 (2011 Realignment Legislation Addressing Public Safety)
  - Comes into effect upon the passage of AB 111.
  - Authorizes counties who have received a conditional award under a specified jail facilities financing program to relinquish that award and reapply for a conditional award under a separate financing program.
  - Lowers the county's required contribution from 25 percent to 10 percent and additionally requires CDCR and the Corrections Standard Authority to give funding preference to those counties that relinquish local jail construction conditional awards and agree to continue to assist the state in siting re-entry facilities.
- AB 118
  - Outlines the financial structure for allocating funds to a variety of accounts for realignment.
  - Establishes the Local Revenue Fund 2011 for receiving revenue and appropriates from that account to the counties.
  - Directs the deposit of revenues associated with 1.0625 percent of the state sales tax rate to be deposited in the Fund.

- Establishes a reserve account should revenues come in higher than anticipated.
- The reallocation formulas will be developed more permanently using appropriate data and information for the 2012-'13 fiscal year and each fiscal year thereafter.
- Implements sufficient protections to provide ongoing funding and mandated protection for the state and local government.
- The smallest of counties that benefit from the minimum grant will each receive approximately \$77,000 in 2011-'12.
- SB 89
  - Dedicates a portion (\$12) of the Vehicle License Fee to the Fund.
  - Revenue comes from two sources; freed up VLF previously dedicated to DMV administration and VLF that was previously dedicated to cities for general purpose use.
  - Estimated total amount of VLF revenue now dedicated to realignment is \$354.3 million in 2010-2011.
- SB 87
  - Provides counties with a one-time appropriation of \$25 million to cover costs associated with hiring, retention, training, data improvements, contracting costs, and capacity planning pursuant to each county's AB 109 implementation plan.

### **Local Planning Process**

The Community Corrections Partnership (CCP), which was previously established in Penal Code § 1230, will develop and recommend to the county Board of Supervisors an implementation plan for 2011 Public Safety Realignment. An Executive Committee from the CCP members will be comprised of the following:

- Chief probation officer
- Chief of police
- Sheriff
- District Attorney
- Public Defender
- Presiding judge of the superior court (or his/her designee)
- A representative from either the County Department of Social Services, Mental Health, or Alcohol and Substance Abuse Programs, as appointed by the County Board of Supervisors.

The Executive Committee plan is deemed accepted by the county Board of Supervisors unless the Board rejects the plan by a four-fifths vote.

### **Community, Local Custody**

AB 109 allows non-violent, non-serious, and non sex offenders to serve their sentence in county jails instead of state prisons. However, counties can contract back with the State to house local offenders.

Under AB 109:

- No inmates currently in state prison will be transferred to county jails.
- No inmates currently in state prison will be released early.
- All felons sent to state prison will continue to serve their entire sentence in state prison.
- All felons convicted of current or prior serious or violent offenses, sex offenses, and sex offenses against children will go to state prison.

- There are nearly 60 additional crimes that are not defined in Penal Code as serious or violent offenses but at the request of law enforcement were added as offenses that would be served in state prison rather than in local custody.

Please see the document “AB 109: Final Crime Exclusion List” for a complete listing of those crimes.

### **Post-Release (County-Level) Community Supervision**

CDCR continues to have jurisdiction over all offenders who are on state parole **prior** to the implementation date of October 1, 2011. Prospectively, county-level supervision for offenders upon release from prison will include current non-violent, non-serious (irrespective of priors) and sex offenders. County-level supervision will **not** include:

- Third-strike offenders- those whose third strike was for a non-violent offense would still be on State parole.
- Offenders whose **current** commitment offense is serious or violent, as defined by California’s Penal Code §§ 667.5(c) and 1192.7(c).
- High-risk sex offenders,
- Mentally Disordered Offenders
- Offenders on parole prior to October 1.

Offenders who meet the above-stated conditions will continue to be under state parole supervision.

The county Board of Supervisors will designate a county agency to be responsible for post-release supervision and will provide that information to CDCR by August 1, 2011. CDCR must notify counties of an individual’s release at least one month prior. Once the individual has been released CDCR no longer has jurisdiction over any person who is under post-release community supervision. No person shall be returned to prison on a parole revocation except for those persons previously sentenced to a term of life.

### **Parole Revocations**

**Starting October 1, 2011, all parole revocations will be served in county jail instead of state prison and can only be up to 180 days.**

The responsibility of parole revocations will continue under the Board of Parole Hearings until July 1, 2013, at which time the parole revocation process will become a local court-based process. Local courts, rather than the Board of Parole Hearings, will be the designated authority for determining revocations. Contracting back to the state for offenders to complete a custody parole revocation is not an option. Only offenders previously sentenced to a term of life can be revoked to prison.

After July, 1, 2013 The Board of Parole Hearings will continue to conduct

- Parole consideration for lifers;
- Medical parole hearings;
- Mentally disordered offender cases; and
- Sexually Violent Predator cases.

AB 109 also provides the following under parole:

- Allows local parole revocations up to 180 days

- 
- Authorizes flash incarceration at the local level for up to 10 days

Inmates released to parole after serving a life term (e.g., murderers, violent sex offenders, and third-strikers) will be eligible for parole revocation back to state prison if ordered by the Board.

**The Division of Juvenile Justice**

AB 109 limited the future juvenile court commitments to the Division of Juvenile Justice (DJJ). However, AB 117 removes this provision. As such, there will be no changes to DJJ during the 2011 realignment.

**AB 109: Final Crime Exclusion List**

	<b>Code</b>	<b>Section</b>
Administering stupefying drugs to assist in commission of a felony	PC	222
Battery against a juror	PC	243.7
Gassing of a peace officer or local detention facility employee	PC	243.9
Abduction or procurement by fraudulent inducement for prostitution	PC	266a
Purchasing a person for purposes of prostitution or placing a person for immoral purposes	PC	266e
Sale of a person for immoral purposes	PC	266f
Pimping and pimping a minor	PC	266h
Pandering and pandering with a minor	PC	266i
Procurement of a child under age 16 for lewd or lascivious acts	PC	266j
Felony child abuse likely to produce great bodily injury or death	PC	273a
Assault resulting in death of a child under age 8	PC	273ab
Felony domestic violence	PC	273.5
Poisoning or adulterating food, drink, medicine, pharmaceutical product, spring, well, reservoir, or public water supply	PC	347
Felony physical abuse of an elder or dependent adult	PC	368b
Brandishing firearm or deadly weapon to avoid arrest	PC	417.8
Unlawfully causing a fire that causes an inhabited structure or inhabited property to burn	PC	452
Felony stalking	PC	646.9
Solicitation for murder	PC	653f(b)
Possession of a firearm by a prohibited person	PC	12021/12021.1
Possession of an explosive or destructive device	PC	12303.2
Escape	PC	4532
Possession of a controlled substance while armed with a firearm	HS	11370.1
Evading a peace officer by driving in a willful or wanton disregard for safety of persons or property	VC	2800.2
Evading a peace officer causing death or serious bodily injury	VC	2800.3
Hit and run driving causing death or injury	VC	20001
Felony driving under the influence causing injury	VC	23153
Felony convictions with a Penal Code Section 186.11 enhancement	PC	186.11
Bribing an Executive Officer	PC	67
Executive or Ministerial Officer Accepting a Bribe	PC	68
Bribing a Legislator	PC	85
Legislator Excepting a Bribe	PC	86
Judicial Bribery	PC	92/93
Peace Officer Intentionally Planting Evidence	PC	141
Local Official Accepting a Bribe	PC	165
Misappropriation of Public Funds	PC	424
Embezzlement of Public Funds	PC	504/514
Conflict of Interest by Public Officer or Employee	GC	1090/1097
Taking Subordinate Pay	GC	1195
Destruction of Documents	GC	1855
Public Official Who Aids and Abets Voter Fraud	EC	18501
Assault on a Peace Officer	PC	245(d)
Persuading, Luring, or Transporting a Minor Under 13	PC	272(b)
Employment of Minor to Sell Controlled Substance	HS	11353
Employment of Minor to Sell Controlled Substance	HS	11354
Use of Minor to Transport/Possess/Possess for Sale	HS	11380(a)
Employment of Minor to Sell Marijuana	HS	11361(a)(b)
Brandishing Firearm in Presence of Peace Officer	PC	417(c)
Brandishing Firearm or Deadly Weapon to Resist Arrest	PC	417.8
Vehicular Manslaughter While Intoxicated	PC	191.5 (c)
Knowingly Exposes Someone to HIV	HS	120291
Knowingly Facilitates the Collection of Wrongfully Attributed DNA Specimens	PC	298.2
Wrongful Use of DNA Specimens	PC	299.5
Criminal Gang Activity	PC	186.22
Street Gang Activity	PC	186.26
Gang Registration Violation	PC	186.33
Possession or Importation of Horse Meat	PC	598c
Sale of Horse Meat	PC	598d
Manufacture/Distribution of False Documents for Citizenship Purposes	PC	113
Use of False Documents for Citizenship Purposes	PC	114