

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 144

Introduced by Senator Cannella

(Coauthors: Senators Anderson, Berryhill, Fuller, Gaines, and Galgiani)

(Coauthors: Assembly Members Patterson and Perea)

January 30, 2013

An act to add Chapter 6.4 (commencing with Section 30030) to Division 3 of Title 3 of the Government Code, relating to criminal justice realignment, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 144, as amended, Cannella. 2013 Realignment Legislation addressing justice reinvestment.

(1) Existing law, the 2011 Realignment Legislation addressing public safety and related statutes, requires that certain specified felonies be punished by a term of imprisonment in a county jail for 16 months, or 2 or 3 years, and provides for postrelease community supervision by county officials for persons convicted of certain specified felonies upon release from prison or county jail. As part of the realignment of public safety services to local agencies, existing law establishes the Local Revenue Fund 2011 into which specified tax revenues are deposited and are continuously appropriated for the provision of public safety services, as defined.

This bill, the 2013 Realignment Legislation addressing justice reinvestment, would establish the Realignment Reinvestment Fund in the State Treasury as a continuously appropriated fund. The bill would require the Director of Finance, in consultation with the Legislative Analyst, to annually calculate the net savings to the state for the prior

fiscal year and an estimate of the net current fiscal year savings resulting from the 2011 Realignment Legislation addressing public safety, as specified. The bill would require the Controller to transfer \$819,857,000 from the General Fund to the Realignment Reinvestment Fund for the 2013–14 fiscal year, thereby making an appropriation. The bill would, beginning in the 2014–15 fiscal year, and each fiscal year thereafter, require the Controller to transfer an amount equal to the estimate of net current fiscal year savings resulting from the 2011 Realignment Legislation addressing public safety, adjusted by the difference between the preceding year’s estimate and the calculated prior fiscal year net savings, thereby making an appropriation.

The bill would require the Controller to annually allocate moneys in the Realignment Reinvestment Fund, *no later than September 1 of each year*, to each county for deposit in the county’s Realignment Reinvestment Services Account proportionally, based on the average daily population of realigned offenders under each county’s supervision for the preceding fiscal year. The bill would require the Controller to consult with the Board of State and Community Corrections to determine the average daily population for each county.

The bill would require a Realignment Reinvestment Services Account to be established in each county treasury. The bill would require the moneys to implement a comprehensive, locally run, supplemental community-based corrections plan, as specified. The bill would require the supplemental community-based corrections plan to be developed by each county’s local Community Corrections Partnership and to be voted on by an executive committee of each county’s Community Corrections Partnership, as specified. The bill would deem the supplemental community-based corrections plan accepted by the county board of supervisors unless the board rejects the plan by a $\frac{4}{5}$ vote. The bill would require each county or city and county to annually report to the county board of supervisors and the Board of State and Community Corrections on the programs funded pursuant to these provisions, as specified. By imposing additional duties on local officials, this bill would impose a state-mandated local program.

The bill would require the Director of Finance, in consultation with the Legislative Analyst, to develop a yearly estimate of the cost avoidances expected to be realized by the Department of Corrections and Rehabilitation that are a result of the 2011 Realignment Legislature, and would require the director to report those estimates to the Legislature, as provided.

The bill would require that moneys allocated from a Realignment Reinvestment Services Account be expended exclusively for purposes of the bill's provisions. The bill would require that funds received pursuant to its provisions be expended or encumbered no later than June 30 the following year, and would require unspent moneys to be remitted for deposit in the Realignment Reinvestment Fund.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. This act shall be known and may be cited as the
2 2013 Realignment Legislation addressing justice reinvestment.
3 SEC. 2. The Legislature finds and declares all of the following:
4 (a) The Legislature is committed to reducing recidivism among
5 criminal offenders, ensuring that local governments have adequate
6 funding to achieve this goal, and facilitating the responsible
7 implementation of the criminal justice polices contained in the
8 2011 Realignment Legislation addressing public safety.
9 (b) California must continue to reinvest its criminal justice
10 resources to support community-based corrections programs,
11 evidence-based practices, and local correctional facilities in order
12 to achieve improved public safety returns on this state's substantial
13 investment in its criminal justice system.
14 (c) Realigning low-level felony offenders who do not have prior
15 convictions for serious, violent, or sex offenses to locally run,
16 community-based corrections programs, which are strengthened
17 through community-based punishment, evidence-based practices,
18 improved supervision strategies, and enhanced secured capacity,
19 has the potential to improve public safety outcomes for adult felons
20 and facilitate their reintegration back into society. However, local
21 governments have indicated that current resources provided by the
22 state to achieve these goals are inadequate. This lack of resources

1 has resulted in an increase in criminal activity throughout the state
 2 that indicates that realignment is failing to achieve its stated goals.
 3 As a result, community-based corrections programs require
 4 additional funding to meet the level of need and provide an
 5 appropriate level of service for offender populations shifted as a
 6 result of the 2011 Realignment Legislation addressing public
 7 safety.

8 (d) By enacting the 2011 Realignment Legislation addressing
 9 public safety, the Legislature affirmed its commitment to justice
 10 reinvestment and stated that the purpose of justice reinvestment
 11 is to manage and allocate criminal justice populations more cost
 12 effectively, generating savings that can be reinvested in
 13 evidence-based strategies that increase public safety while holding
 14 offenders accountable.

15 (e) In order to properly implement the 2011 Realignment
 16 Legislation addressing public safety, it is the intent of the
 17 Legislature to fully commit to justice reinvestment by using
 18 identified state savings generated by the 2011 Realignment
 19 Legislation addressing public safety and any other necessary funds
 20 to provide local governments with maximum flexibility and
 21 adequate funding to manage these new offenders in the manner
 22 that is in the best interest of public safety, most appropriate to each
 23 county, and consistent with principles of justice reinvestment.

24 SEC. 3. Chapter 6.4 (commencing with Section 30030) is added
 25 to Division 3 of Title 3 of the Government Code, to read:

26
 27 CHAPTER 6.4. REALIGNMENT REINVESTMENT FUND
 28

29 30030. For purposes of this chapter, “realigned offenders”
 30 means offenders sentenced to a county jail or to mandatory
 31 supervision, or to both county jail and mandatory supervision,
 32 pursuant to subdivision (h) of Section 1170 of the Penal Code,
 33 offenders subject to postrelease community supervision pursuant
 34 to Title 2.05 (commencing with Section 3450) of Part 3 of the
 35 Penal Code, and any other offenders under county supervision
 36 whose supervision would have been the responsibility of the state
 37 if the 2011 Realignment Legislation addressing public safety had
 38 not been enacted.

39 30031. (a) (1) The Realignment Reinvestment Fund is hereby
 40 established in the State Treasury. Moneys in the fund are

1 continuously appropriated and shall be used exclusively for the
2 purposes of this chapter.

3 (2) (A) Beginning in 2014, on or after July 1, and no later than
4 August 31 of each year, the Director of Finance shall, in
5 consultation with the Legislative Analyst, annually calculate both
6 of the following:

7 (i) The actual net savings to the state for the immediately
8 preceding fiscal year resulting from the 2011 Realignment
9 Legislation addressing public safety.

10 (ii) An estimate of the net savings to the state for the current
11 fiscal year resulting from the 2011 Realignment Legislation
12 addressing public safety.

13 (B) Provided there are savings, the calculations shall be made
14 for each fiscal year by subtracting the amount calculated pursuant
15 to subparagraph (D) from the amount calculated pursuant to
16 subparagraph (C) for each fiscal year.

17 (C) (i) For the calculation pursuant to clause (i) of subparagraph
18 (A), the sum of all expenditure reductions, less cost increases,
19 affecting the Department of Corrections and Rehabilitation in the
20 fiscal year for which the calculation is being made that are a result
21 of the 2011 Realignment Legislation addressing public safety.

22 (ii) For the calculation pursuant to clause (ii) of subparagraph
23 (A), the projected sum of all expenditure reductions, less cost
24 increases, affecting the Department of Corrections and
25 Rehabilitation in the fiscal year for which the calculation is being
26 made that are a result of the 2011 Realignment Legislation
27 addressing public safety.

28 (D) (i) For the calculation pursuant to clause (i) of subparagraph
29 (A), the sum of the allocations made from the Community
30 Corrections Subaccount, the Community Corrections Growth
31 Special Account, the District Attorney and Public Defender
32 Subaccount, and the District Attorney and Public Defender Growth
33 Special Account in the fiscal year for which the calculation is being
34 made, less four hundred fifty-three million dollars (\$453,000,000).

35 (ii) For the calculation pursuant to clause (ii) of subparagraph
36 (A), the sum of the allocations projected to be made from the
37 Community Corrections Subaccount, the Community Corrections
38 Growth Special Account, the District Attorney and Public Defender
39 Subaccount, and the District Attorney and Public Defender Growth

1 Special Account in the fiscal year for which the calculation is being
2 made, less four hundred fifty-three million dollars (\$453,000,000).

3 (3) For the 2013–14 fiscal year, the Controller shall transfer
4 eight hundred nineteen million eight hundred fifty-seven thousand
5 dollars (\$819,857,000) from the General Fund to the Realignment
6 Reinvestment Fund for allocation pursuant to paragraph (5).

7 (4) Beginning with the 2014–15 fiscal year, and each fiscal year
8 thereafter, the Controller shall transfer an amount equal to the
9 difference between the amount identified in subparagraph (A) and
10 the amount identified in subparagraph (B) from the General Fund
11 to the Realignment Reinvestment Fund for allocation pursuant to
12 paragraph (5).

13 (A) The estimate of net savings for the current fiscal year
14 calculated pursuant to clause (ii) of subparagraph (A) of paragraph
15 (2).

16 (B) An adjustment for the immediately preceding fiscal year
17 that is the result of subtracting the amount calculated pursuant to
18 clause (i) of subparagraph (A) of paragraph (2) for that fiscal year
19 from the amount estimated pursuant to clause (ii) of subparagraph
20 (A) of paragraph (2) for that fiscal year.

21 (5) The Controller shall annually allocate moneys in the
22 Realignment Reinvestment Fund, *no later than September 1 of*
23 *each year*, to each county and city and county, for deposit in the
24 county's or city and county's Realignment Reinvestment Services
25 Account proportionally, based on the average daily population of
26 realigned offenders under each county's supervision for the
27 preceding fiscal year. The Controller shall consult with the Board
28 of State and Community Corrections to determine the average
29 daily population for each county.

30 (b) There shall be established in each county or city and county
31 treasury a Realignment Reinvestment Services Account to receive
32 all amounts allocated to a county or city and county for purposes
33 of implementing this chapter.

34 (c) (1) Each county local Community Corrections Partnership
35 established pursuant to subdivision (b) of Section 1230 of the Penal
36 Code shall recommend a comprehensive, locally run supplemental
37 community-based corrections plan to the county board of
38 supervisors. The purpose of the plan shall be to improve the
39 outcomes of the 2011–~~public safety realignment~~ *Realignment*
40 *Legislation addressing public safety*. The plan may include, but

1 shall not be limited to, mental health programs, substance abuse
2 programs, transitional housing programs, job placement programs,
3 improved supervision strategies, community-based punishment
4 programs, increased law enforcement staffing in cities and counties,
5 county jail construction, maintenance, and operation, assessment
6 and criminal prosecution of realigned offenders, and supervision
7 or aftercare for offenders sentenced pursuant to subdivision (h) of
8 Section 1170 of the Penal Code and offenders subject to postrelease
9 community supervision pursuant to Section 3451 of the Penal
10 Code.

11 (A) The supplemental community-based corrections plan ~~shall~~
12 *may* include, but *shall* not be limited to, all of the following
13 components:

14 (i) An assessment of existing law enforcement, probation,
15 education, mental health, health, social services, drug and alcohol,
16 and other services that specifically target realigned offenders, and
17 their families.

18 (ii) An identification and prioritization of the neighborhoods
19 and other areas in the community that face a significant public
20 safety risk from realigned offenders and associated crimes,
21 including, but not limited to, gang activity, burglary, robbery,
22 vandalism, controlled substances sales, firearm-related violence,
23 and substance abuse.

24 (iii) A local action strategy that provides for a continuum of
25 responses to crime and demonstrates a collaborative and integrated
26 approach for implementing a system of swift, certain, and
27 graduated responses for realigned offenders.

28 (iv) A schedule of programs identified in clause (iii) that are
29 proposed to be funded pursuant to this subparagraph, including
30 the projected amount of funding for each program.

31 (v) An accounting of the number of new crimes or violations
32 committed by realigned offenders.

33 (vi) *An evaluation of existing services and any gaps that may*
34 *exist in those services.*

35 (B) Programs proposed to be funded shall satisfy all of the
36 following requirements:

37 (i) Be based on evidence-based programs and approaches that
38 have been demonstrated to be effective in reducing crime, *or*
39 *programs that improve public safety through incapacitation,*
40 *prosecution, or treatment of realigned offenders.*

1 (ii) Employ information sharing systems to ensure that county
2 and city actions are fully coordinated and designed to provide data
3 for measuring the success of programs and strategies.

4 (C) The plan shall also identify the specific objectives of the
5 programs proposed for funding and specified outcome measures
6 to determine the effectiveness of the programs and contain an
7 accounting for all program participants, including those who do
8 not complete the programs. Outcome measures of the programs
9 proposed to be funded shall include, but not be limited to, all of
10 the following *when that data is available and relevant to the*
11 *program*:

12 (i) The rate of arrests per 100,000 population.

13 (ii) The rate of successful completion of probation and
14 postrelease community supervision.

15 (iii) The rate of successful completion of restitution and
16 court-ordered community service responsibilities.

17 (iv) Arrest, incarceration, and probation violation rates of
18 realigned offenders and other program participants.

19 (v) Quantification of the annual per capita costs of the program.

20 (D) To assess the effectiveness of programs funded pursuant to
21 this paragraph using the program outcome criteria specified in
22 subparagraph (C), the following periodic reports shall be submitted:

23 (i) Each county or city and county shall report, beginning
24 October 15, 2015, and annually each October 15 thereafter, to the
25 county board of supervisors and the Board of State and Community
26 Corrections, in a format specified by the board, on the programs
27 funded pursuant to this chapter and program outcomes as specified
28 in subparagraph (C).

29 (ii) The Board of State and Community Corrections shall
30 compile the local reports and, by March 15, 2015, and by March
31 15 of each year thereafter, make a report to the Governor and the
32 Legislature on program expenditures within each county and city
33 and county funded pursuant to this section and on the outcomes
34 as specified in subparagraph (C). A report submitted pursuant to
35 this clause shall be submitted in compliance with Section 9795 of
36 the Government Code.

37 (2) The supplemental community-based corrections plan shall
38 be voted on by an executive committee of each county's
39 Community Corrections Partnership consisting of the chief
40 probation officer of the county as chair, a chief of police, the

1 sheriff, the District Attorney, the Public Defender, the presiding
2 judge of the superior court, or his or her designee, and one
3 department representative listed in either subparagraph (G), (H),
4 or (J) of paragraph (2) of subdivision (b) of Section 1230 of the
5 Penal Code, as designated by the county board of supervisors for
6 purposes related to the development and presentation of the plan.

7 (3) If a supplemental community-based corrections plan has
8 been previously approved by a county's or city and county's local
9 Community Corrections Partnership, the plan shall be reviewed
10 annually and modified as needed.

11 (4) The supplemental community-based corrections plan or
12 modified supplemental community-based corrections plan shall
13 be deemed accepted by the county board of supervisors unless the
14 board rejects the plan by a vote of four-fifths of the board, in which
15 case the plan shall go back to the Community Corrections
16 Partnership for further consideration.

17 (5) The supplemental community-based corrections plan or
18 modified supplemental community-based corrections plan shall
19 be submitted to the Board of State and Community Corrections
20 no later than October 15 of each year.

21 (d) The Controller shall allocate funds to local jurisdictions for
22 public safety in accordance with this section as described in
23 subdivision (a).

24 (e) Funds allocated pursuant to subdivision (c) shall be expended
25 or encumbered in accordance with this chapter no later than June
26 30 of the following fiscal year. A local agency that has not met
27 the requirement of this subdivision shall remit the unspent moneys
28 in the Realignment Reinvestment Services Account to the
29 Controller for deposit in the Realignment Reinvestment Fund.

30 (f) Beginning in 2014, and no later than May 1 of each year,
31 the Director of Finance shall, in consultation with the Legislative
32 Analyst, develop an estimate of the cost avoidances expected to
33 be realized by the Department of Corrections and Rehabilitation
34 in the current fiscal year that are a result of the 2011 Realignment
35 Legislation addressing public safety and report those estimates to
36 the chairpersons of the committees in each house of the Legislature
37 that consider appropriations and to the Chairperson of the Joint
38 Legislative Budget Committee. A report submitted pursuant to
39 this subdivision shall be submitted in compliance with Section
40 9795 of the Government Code. The Legislature may consider each

1 year whether to appropriate funds in augmentation of the moneys
2 otherwise allocated pursuant to this chapter in an amount up to
3 and including the amount of cost avoidances reported pursuant to
4 this subdivision.

5 30032. (a) Moneys allocated from a Realignment Reinvestment
6 Services Account to a recipient entity shall be expended exclusively
7 for services included in the county's or city and county's
8 supplemental community-based corrections plan. These moneys
9 shall supplement existing services, and shall not be used to supplant
10 any existing funding for law enforcement services or programs or
11 activities included in the supplemental community-based
12 corrections plan provided by that entity.

13 (b) In no event shall any moneys allocated from the county's
14 or city and county's Realignment Reinvestment Services Account
15 be expended by a recipient entity to fund any of the following:

16 (1) Administrative overhead costs in excess of 1 percent of a
17 recipient entity's Realignment Reinvestment Services Account
18 allocation for that fiscal year.

19 (2) The costs of any capital project or construction project that
20 does not directly support programs or activities included in the
21 supplemental community-based corrections plan.

22 (c) For purposes of this section, both of the following shall
23 apply:

24 (1) A "recipient entity" is that entity that actually incurs the
25 expenditures of Realignment Reinvestment Services Account funds
26 allocated pursuant to subdivision (c) of Section 30301.

27 (2) Administrative overhead costs shall only be charged by the
28 recipient entity, as defined in paragraph (1), up to 1 percent of its
29 Realignment Reinvestment Services Account allocation.

30 30033. The moneys in the Realignment Reinvestment Services
31 Account established pursuant to subdivision (b) of Section 30031
32 in each county or city and county shall be expended exclusively
33 as required by this chapter. Moneys allocated from the account
34 shall not be transferred to, or commingled with, the moneys in any
35 other fund in the county or city and county treasury, except that
36 moneys may be transferred from the account to the county's or
37 city and county's general fund to the extent necessary to facilitate
38 the appropriation and expenditure of those transferred moneys in
39 the manner required by this chapter.

1 SEC. 4. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

O