

Date of Hearing: June 8, 2022  
Counsel: Liah Burnley

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

SB 1137 (Atkins) – As Amended March 8, 2022

**SUMMARY:** Expands the Board of State and Community Correction's (BSCC) mission to include the promotion of legal and safe conditions for youth, inmates, and staff in local detention facilities.

**EXISTING LAW:**

- 1) Establishes the BSCC. (Pen. Code, § 6024, subd. (a).)
- 2) Provides that the BSCC shall be an entity independent of the California Department of Corrections and Rehabilitation (CDCR). (Pen. Code, § 6024, subd. (a).)
- 3) States that the mission of the BSCC shall include providing statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system, including addressing gang problems. (Pen. Code, § 6024, subd. (b).)
- 4) States that BSCC's mission shall reflect the principle of aligning fiscal policy and correctional practices, including, but not limited to prevention, intervention, suppression, supervision, and incapacitation, to promote a justice investment strategy that fits each county and is consistent with the integrated statewide goal of improved public safety through cost-effective, promising, and evidence-based strategies for managing criminal justice populations. (Pen. Code, § 6024, subd. (b).)
- 5) Requires BSCC to regularly seek advice from a balanced range of stakeholders and subject matter experts on issues pertaining to adult corrections, juvenile justice, and gang problems relevant to its mission. (Pen. Code, § 6024, subd. (c).)
- 6) Requires BSCC to seek to ensure that its efforts are systematically informed by experts and stakeholders with the most specific knowledge concerning the subject matter, include the participation of those who must implement a board decision and are impacted by a board decision, and promote collaboration and innovative problem solving consistent with its mission. (Pen. Code, § 6024, subd. (c).)
- 7) Requires BSCC to establish minimum standards for local correctional facilities, to review those standards biennially and make any appropriate revisions. These standards include, but are not limited to health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in state and local correctional facilities, and personnel training. (Pen. Code, § 6030.)

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

- 1) **Author's Statement:** According to the author, “Local governments are responsible for operating certain detention facilities (such as jails) to incarcerate people in various stages of the criminal justice system. Accordingly, these detention facilities often engage in high stakes activities—including delivery of health care and use of force—that can have life and death consequences for those incarcerated as well as staff. Accordingly, proper facility policies and operations are critical to ensuring safety and humane treatment, protecting the rights of those incarcerated, and minimizing exposure to legal liability. (Legislative Analyst Office (LAO), “A Review of State Standards and Inspections for Local Detention Facilities.” 2021.)

“County detention facilities are generally operated by elected sheriffs. However, the conditions of many local detention facilities have come under scrutiny. In February 2022, the State Auditor released an audit involving the San Diego County Sheriff’s department. In the report, the Auditor found the following:

In accordance with federal constitutional law, the San Diego County Sheriff’s Department (Sheriff’s Department) has a responsibility to provide adequate medical care for individuals while they are in its custody. Nonetheless, from 2006 through 2020, a total of 185 people died in San Diego County’s jails more than in nearly any other county across the State.

Some of these individuals were in custody for only a few days to a few months; others were waiting to be sentenced, set to be released, or about to be transferred to different facilities. Although any death is a tragedy, the high rate of deaths in San Diego County’s jails compared to other counties raises concerns and suggests that underlying systemic issues with the Sheriff’s Department’s policies and practices have undermined its ability to ensure the health and safety of the individuals in its custody. Significant deficiencies in the Sheriff’s Department’s provision of care to incarcerated individuals likely contributed to the deaths in its jails.

“Although state law provides the county board of supervisors authority to approve the Sheriff Department’s budget, local governments have limited authority over the Sheriff’s Department. Indeed, it has been noted that boards of supervisors must make decisions relating to liability exposure but are limited in defining proper facility policies and operations.

“Generally, the California Board of State and Community Corrections (BSCC) is responsible for establishing standards for the operation of local detention facilities, including establishing the minimum standards for jail conditions and the treatment of incarcerated individuals. The BSCC is also responsible for inspecting each local detention facility every two years to assess compliance with adopted state standards. Although this oversight is important, a recent report by the LAO questioned the effectiveness of this oversight, particularly because the BSCC “lacks a clearly defined mission and goals from which to measure specific program outcomes.”

“BSCC has significant discretion in determining how to operate its program, particularly as it relates to conditions relating to inmates in detention facilities. Additional focus on its mission could help steer local detention facilities in making better decisions relating to their constitutional responsibility in providing legal and safe conditions.

“Consistent with the LAO’s recommendations, SB 1137 expands the mission of the Board of State and Community Corrections to also promote legal and safe conditions for youth, inmates, and staff in local detention facilities.”

- 2) **BSCC:** Established in 2012, the California Board of State and Community Corrections (BSCC) is an independent statutory agency that provides leadership to the adult and juvenile criminal justice systems, expertise on Public Safety Realignment issues, a data and information clearinghouse, and technical assistance on a wide range of community corrections issues. (Pen. Code, §§ 6024-6025.) In addition, the BSCC promulgates regulations for adult and juvenile detention facilities, conducts regular inspections of those facilities, develops standards for the selection and training of local corrections and probation officers, and administers significant public safety-related grant funding. (BSCC, *About the Board of State and Community Corrections*, <[https://www.bscc.ca.gov/m\\_bsccboard/](https://www.bscc.ca.gov/m_bsccboard/)>.)

The BSCC has four primary responsibilities: setting standards for and inspecting local detention facilities; setting standards for the selection and training of local correctional staff; administering various grant programs related to recidivism and reduction strategies; and administering the state’s construction financing program for local detention facilities. The 2021-2022 budget provides the BSCC with \$617 million (\$349 million General Fund) to carry out those responsibilities. (2021-22 State Budget, <<https://www.ebudget.ca.gov/budget/publication/#/e/2021-22/ExpendituresPositions/5227>>.)

Current law requires the BSCC to maintain minimum standards establish minimum standards for local correctional facilities, to review those standards biennially and make any appropriate revisions. These standards include, but are not limited to health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in state and local correctional facilities, and personnel training. (Pen. Code, § 6030.) Notably, although the BSCC is required to inspect local detention facilities to determine compliance with the standards and to report noncompliance, the BSCC is not authorized under state law to enforce the standards (e.g., by fining a local detention facility).

The BSCC’s standards and inspection program is one of the primary ways that the state exercises oversight of local detention facilities. Growing concerns over conditions inside of the state’s local detention facilities, including isolation of mentally ill inmates, violence, suicide, use of force, and lack of transparency have led to the introduction of a number of bills in recent years aimed at increasing transparency and accountability as they relate to county jails. In early 2020, Governor Newsom directed the BSCC to strengthen the state’s oversight of county jails, and the BSCC has since developed an enhanced jail inspection process which began in 2021. (BSCC, *Targeted Jail Inspections* (Feb. 11, 2021), <<https://www.bscc.ca.gov/wp-content/uploads/Info-Item-6-Targeted-Inspections-FINAL.pdf>>.)

- 3) **Local Detention Facilities:** Local governments in the State are responsible for detaining both youth and adults who have been arrested for a crime and are awaiting trial or other court decisions or who are serving a sentence following conviction of a crime. Some city police departments also operate detention facilities which they use to hold people following an arrest on a short-term basis. According to a recent report published by the Legislative Analyst's Office (LAO), there are about 550 local detention facilities throughout the State. (LAO, *A Review of State Standards and Inspections for Local Detention Facilities* (Feb. 2021), p. 3 <<https://lao.ca.gov/reports/2021/4371/Standards-Inspections-Local-Detention-Facilities-021621.pdf>>.) Generally, county detention facilities are operated by elected sheriffs, and city detention facilities are operated by appointed chiefs of police. (*Id.*, at p. 4.) County juvenile justice systems are operated by county probation departments headed by chief probation officers. (*Ibid.*) Local detention facilities typically maintain internal policies and procedural manuals related to facility operations. (*Ibid.*)
- 4) **LAO Report:** A recent LAO report concluded that it was difficult to assess the BSCC's standards and inspection program "primarily because the program lacks a clearly defined mission and goals from which to measure specific program outcomes." (LAO, *A Review of State Standards and Inspections for Local Detention Facilities* (February 2021), p. 8 <<https://lao.ca.gov/reports/2021/4371/Standards-Inspections-Local-Detention-Facilities-021621.pdf>>.) The report indicated that due to the lack of specificity in state law regarding the BSCC's mission or goals, "it is unclear whether the intended mission of the program is to assist local government in determining legal requirements for facility conditions, create statewide uniformity in facility operations, ensure humane and safe conditions, or something else" and that "[t]he absence of a defined program mission and goals in statute leaves significant discretion to BSCC and the administration in determining how to operate the program." (*Ibid.*) The report further stated that the lack of a clear mission and goals undermines Legislative oversight due to the difficulty in assessing "whether the program fulfills an important state function that is consistent with its priorities"...or "whether the program is operating effectively and achieving its goals." (*Ibid.*) The report recommended the Legislature take the following actions:
- Establish clear program mission and goals by establishing in statute that the mission of the standards and inspection program is to promote legal, humane, and safe conditions for youth, inmates, and staff in local detention facilities.
  - Establish the following goals: maintain standards that help local leaders determine and meet legal requirements; facilitate transparency and accountability through standards and inspections; promote equitable provision of legal, humane, and safe conditions; and provide technical assistance and statewide leadership to facilitate systemic improvement in detention conditions.
  - Balance board membership to facilitate oversight by adding board members with professional expertise in advocacy for and oversight of detention conditions.
  - Require plan to align with program mission and goals by directing the BSCC to develop a detailed plan with specified elements. (*Id.* at pp. 1, 9-13.)

This bill partially adopts the first recommendation of the LAO report by expanding the BSCC's mission to include the promotion of legal and safe conditions for youth, inmates, and staff in local detention facilities.

**5) Related Legislation:**

- a) AB 2343 (Weber), would require BSCC to develop and adopt regulations pertaining to standards of care for incarcerated persons with mental health issues by local correctional facilities, including requirements for training of correctional staff, requirements for mental health screening, and requirements for safety checks of at-risk incarcerated persons. AB 2343 is pending referral in the Senate.
- b) AB 2632 (Holden), would require specified correctional facilities in the State to follow specified procedures related to segregated confinement and would require BSCC to assess each local correctional facility, including private detention facilities, for compliance with procedures relating to segregated confinement. AB 2632 is pending referral in the Senate.

- 6) **Prior Legislation:** SB 92 (Committee on Budget and Fiscal Review), Chapter 36, Statutes of 2011, removed the Corrections Standards Authority from CDCR and created the BSCC, beginning July 1, 2012.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None

**Opposition**

None

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