

Introduced by Committee on Criminal Procedure (Senators Marks (Chair), Beverly, Boatwright, Campbell, Polanco, and Watson)

February 23, 1995

An act to amend Sections 9144 and 15819.8 of the Government Code, and to amend Sections 999j, 4415, 5010, 6029.1, 13752, 13810, and 13881 of the Penal Code, relating to the Senate Committee on Criminal Procedure, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 842, as introduced, Committee on Criminal Procedure. Senate Committee on Criminal Procedure.

The Temporary Standing Rules of the Senate for the 1995-96 Regular Session set out the standing committees of the Senate and specify those areas of law assigned to each committee. The Senate Committee on Criminal Procedure is assigned bills amending the Evidence Code, the Penal Code, and statutes of a penal nature, and those bills relating to the Youth and Adult Corrections Agency. Previously, under the Temporary Standing Rules of the Senate for the 1994-95 Regular Session, these bills were assigned to the Senate Judiciary Committee.

This bill would revise various relevant statutes to reflect the current jurisdiction of the Senate Judiciary Committee and the creation of the Senate Committee on Criminal Procedure.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 9144 of the Government Code is
2 amended to read:

3 9144. The Legislative Analyst shall prepare a judicial
4 impact analysis, with the assistance of the Department of
5 Finance and the Judicial Council when and as requested
6 by the Legislative Analyst, on selected measures referred
7 to the Senate Judiciary Committee, *Senate Criminal*
8 *Procedure Committee*, Assembly Judiciary Committee,
9 and Assembly Criminal Justice Committee.

10 The Legislative Analyst shall select for analysis, as his or
11 her staff resources permit with no additional staff, those
12 measures with the greatest apparent potential impact on
13 court manpower and costs. Other measures may be
14 analyzed as staff resources permit. The analysis of a
15 measure shall be given to the respective committee
16 members prior to the date on which the measure is to be
17 heard by the committee.

18 The analyses required by this section shall be
19 performed on a nine-month trial basis. Thereafter, the
20 cost and effectiveness of this type of analysis for the
21 specified policy committees shall be evaluated by the
22 three respective committees.

23 SEC. 2. Section 15819.8 of the Government Code is
24 amended to read:

25 15819.8. At least 20 days prior to marketing bonds
26 authorized by this chapter, the Department of
27 Corrections shall notify the chairpersons of the fiscal
28 committees in each house of the Legislature, the
29 Chairpersons of the Assembly Committee on Public
30 Safety and the Senate ~~Judiciary~~ *Committee on Criminal*
31 *Procedure*, the Chairperson and the Vice Chairperson of
32 the Joint Legislative Budget Committee, and the
33 Chairperson of the Joint Legislative Committee on Prison
34 Construction and Operation of the general parameters of
35 the proposed sale, including the size and terms of the



1 issue, the anticipated debt service requirements, and any
2 other significant factors affecting the sale. This paragraph
3 does not apply to the marketing of bonds for
4 lease-purchase financing of the California State
5 Prison—Corcoran.

6 The Department of Corrections shall report to each of
7 these persons on a quarterly basis following the sale of the
8 bonds on the progress of any acquisition or construction
9 financed by the sale and on the then current debt service
10 requirements.

11 SEC. 3. Section 999j of the Penal Code is amended to
12 read:

13 999j. (a) There is hereby established in the Office of
14 Criminal Justice Planning a program of financial and
15 technical assistance for district attorneys' offices,
16 designated the Repeat Sexual Offender Prosecution
17 Program. All funds appropriated to the Office of Criminal
18 Justice Planning for the purposes of this chapter shall be
19 administered and disbursed by the executive director of
20 such office, and shall to the greatest extent feasible, be
21 coordinated or consolidated with any federal or local
22 funds that may be made available for these purposes.

23 The Office of Criminal Justice Planning shall establish
24 guidelines for the provision of grant awards to proposed
25 and existing programs prior to the allocation of funds
26 under this chapter. These guidelines shall contain the
27 criteria for the selection of agencies to receive funding,
28 as developed in consultation with an advisory group to be
29 known as the Repeat Sexual Offender Prosecution
30 Program Steering Committee. The membership of the
31 Steering Committee shall be designated by the Executive
32 Director of the Office of Criminal Justice Planning.

33 A draft of the guidelines shall be developed and
34 submitted to the Chairpersons of the Assembly ~~Criminal~~
35 ~~Law and Committee on Public Safety—Committee~~ and the
36 Senate ~~Judiciary~~ *Committee on Criminal Procedure*
37 within 60 days of the effective date of this chapter and
38 issued within 90 days of the same effective date. These
39 guidelines shall set forth the terms and conditions upon
40 which the Office of Criminal Justice Planning is prepared



1 to offer grants pursuant to statutory authority. The
2 guidelines shall not constitute rules, regulations, orders,
3 or standards of general application.

4 (b) The executive director is authorized to allocate
5 and award funds to counties in which repeat sexual
6 offender prosecution units are established or are
7 proposed to be established in substantial compliance with
8 the policies and criteria set forth below in Sections 999k,
9 999l, and 999m.

10 (c) Such allocation and award of funds shall be made
11 upon application executed by the county's district
12 attorney and approved by its board of supervisors. Funds
13 disbursed under this chapter shall not supplant local
14 funds that would, in the absence of the California Repeat
15 Sexual Offender prosecution program, be made available
16 to support the prosecution of repeat sexual offender
17 felony cases. Local grant awards made under this
18 program shall not be subject to review as specified in
19 Section 14780 of the Government Code.

20 SEC. 4. Section 4415 of the Penal Code is amended to
21 read:

22 4415. Moneys in the fund shall be available for
23 expenditure in accordance with this title by the Board of
24 Corrections. Prior to the disbursement of any money in
25 the fund the board, the ~~Subcommittee on Corrections of~~
26 ~~the Senate Judiciary Committee and the Subcommittee~~
27 ~~on County Jails of the Assembly Criminal Justice~~
28 ~~Committee~~ *appropriate subcommittees of the Senate*
29 *Committee on Criminal Procedure and the Assembly*
30 *Committee on Public Safety* shall reexamine the factors
31 specified in subdivisions (a) and (b) to determine
32 whether they are still suitable and applicable to the
33 distribution of the proceeds of the bonds authorized by
34 this title. Moneys in the fund shall be available for
35 expenditure for the following purposes:

36 (a) For the construction, reconstruction, remodeling,
37 and replacement of county jail facilities, and the
38 performance of deferred maintenance activities on such
39 facilities pursuant to rules and regulations adopted by the
40 Board of Corrections, in accordance with the provisions



1 of Section 6029.1. No expenditure shall be made unless
2 county matching funds of 25 percent are provided.

3 (b) In performing the duties set forth in subdivision
4 (a), the Board of Corrections shall consider all of the
5 following:

6 (1) The extent to which the county requesting aid has
7 exhausted all other available means of raising the
8 requested funds for the capital improvements and the
9 extent to which the funds from the County Jail Capital
10 Expenditure Fund will be utilized to attract other sources
11 of capital financing for county jail facilities.

12 (2) The extent to which the capital improvements are
13 necessary to the life or safety of the persons confined or
14 employed in the facility or the health and sanitary
15 conditions of the facility.

16 (3) The extent to which the county has utilized
17 reasonable alternatives to pre-conviction and
18 post-conviction incarceration, including, but not limited
19 to, programs to facilitate release upon one's own
20 recognizance where appropriate to individual's pending
21 trial, sentencing alternatives to custody, and civil
22 commitment or diversion programs consistent with
23 public safety for those with drug or alcohol-related
24 problems or mental or developmental disabilities.

25 SEC. 5. Section 5010 of the Penal Code is amended to
26 read:

27 5010. (a) The Legislature hereby finds and declares
28 that the predominant purpose of exercise in correctional
29 facilities should be for the maintenance of the general
30 health and welfare of inmates and that exercise
31 equipment and programs in correctional facilities should
32 be consistent with this purpose.

33 The Legislature further finds and declares that in some
34 cases it may be beneficial to provide access to weights for
35 therapeutic or rehabilitative reasons under a doctor's
36 order or for certain vocational activities such as
37 firefighting.

38 (b) It is the intent of the Legislature that both the
39 Department of Corrections and the Department of the
40 Youth Authority eliminate or restrict access to weights



1 and weight lifting equipment where it is determined that
2 the particular type of equipment involved or the
3 particular prison population or inmate involved poses a
4 safety concern both in the correctional facility and to the
5 public upon release. In those instances where inmates are
6 allowed access to weights and weight lifting equipment,
7 access shall be a privilege.

8 As a condition of inmate access to weights and weight
9 lifting equipment, the departments may require inmates
10 to participate in training in the proper use of weights and
11 weight lifting equipment that emphasizes departmental
12 rules and safety practices that must be observed when
13 using weights and weight lifting equipment.

14 The directors of the departments, or their respective
15 designees, may restrict individual or group access to
16 weights and weight lifting equipment as deemed
17 necessary for the orderly operation of the correctional
18 facility.

19 (c) On or before July 1, 1995, both the Department of
20 Corrections and the Department of the Youth Authority
21 shall adopt regulations governing inmate access to weight
22 lifting and weight training equipment in state prison and
23 California Youth Authority facilities, respectively. In
24 developing these regulations, the departments shall
25 consider each of the following:

26 (1) Some prisoners may utilize weight equipment to
27 develop strength and increase body mass and size rather
28 than for the maintenance of general health. This use of
29 weight equipment may create a risk of harm to other
30 inmates, correctional officers, and staff and, upon release,
31 to law enforcement officers and the general public.

32 (2) The improper use of weights and weight lifting
33 equipment may result in injuries that require costly
34 medical attention.

35 (3) Access to weights and weight lifting equipment by
36 inmates may result in the use of the equipment by
37 inmates to attack other inmates or correctional officers.

38 (d) Both the Department of Corrections and the
39 Department of the Youth Authority shall report to the
40 Chair of the Assembly Committee on Public Safety and



1 the Chair of the Senate ~~Judiciary~~ *Committee on Criminal*
2 *Procedure* on or before July 1, 1995, regarding the
3 regulations adopted pursuant to this section.

4 SEC. 6. Section 6029.1 of the Penal Code is amended
5 to read:

6 6029.1. (a) There is hereby created the County Jail
7 Capital Expenditure Fund. Moneys in the County Jail
8 Capital Expenditure Fund shall be expended by the
9 Board of Corrections as specified in this section to assist
10 counties to finance jail construction. Moneys in the
11 County Jail Capital Expenditure Fund shall be available
12 for encumbrance without regard to fiscal years, and
13 notwithstanding any other provision of law, shall not
14 revert to the General Fund or be transferred to any other
15 fund or account in the State Treasury except for purposes
16 of investment as provided in Article 4 (commencing with
17 Section 16470) of Chapter 3 of Part 2 of Division 4 of Title
18 2 of the Government Code. All interest or other
19 increment resulting from such investment shall be
20 deposited in the County Jail Capital Expenditure Fund,
21 notwithstanding Section 16305.7 of the Government
22 Code.

23 (b) As used in this section, “construction” shall
24 include, but not be limited to, reconstruction,
25 remodeling, replacement of facilities, and the
26 performance of deferred maintenance activities on
27 facilities pursuant to rules and regulations regarding such
28 activities as shall be adopted by the Board of Corrections.

29 (c) The Board of Corrections shall provide financial
30 assistance to counties from the County Jail Capital
31 Expenditure Fund according to policies, criteria, and
32 procedures adopted by the board pursuant to
33 recommendations made by the ~~Subcommittee on~~
34 ~~Corrections of the Senate Judiciary Committee and an~~
35 ~~appropriate subcommittee of the Assembly Criminal~~
36 ~~Justice Committee~~ *appropriate subcommittees of the*
37 *Senate Committee on Criminal Procedure and the*
38 *Assembly Committee on Public Safety* and after
39 consulting with a representative sample of county boards
40 of supervisors and sheriffs.



1 (d) In performing the duties set forth in this section,
2 the Board of Corrections and the policy committees of the
3 Legislature shall consider the following:

4 (1) The extent to which the county requesting aid has
5 exhausted all other available means of raising the
6 requested funds for the capital improvements and the
7 extent to which the funds from the County Jail Capital
8 Expenditure Fund will be utilized to attract other sources
9 of capital financing for county jail facilities;

10 (2) The extent to which a substantial county match
11 shall be required and any circumstances under which the
12 county match may be reduced or waived;

13 (3) The extent to which the county's match shall be
14 based on the county's previous compliance with Board of
15 Corrections standards;

16 (4) The extent to which the capital improvements are
17 necessary to the life or safety of the persons confined or
18 employed in the facility or the health and sanitary
19 conditions of the facility;

20 (5) The extent to which the county has utilized
21 reasonable alternatives to pre- and post-conviction
22 incarceration, including, but not limited to, programs to
23 facilitate release upon one's own recognizance where
24 appropriate to individuals pending trial, sentencing
25 alternatives to custody, and civil commitment or
26 diversion programs consistent with public safety for those
27 with drug or alcohol related problems or mental or
28 developmental disabilities.

29 SEC. 7. Section 13752 of the Penal Code is amended
30 to read:

31 13752. (a) In order to provide breadth of perspective
32 and public credibility, the task force shall consist of 17
33 members, broadly reflective of the general public of the
34 state, including persons of color, women, and persons
35 from varying economic levels, all of whom have
36 demonstrated abilities, vision, or experience in the
37 correctional field. The task force should include persons
38 from large and small counties.

39 (b) The membership of the task force shall include the
40 Chair of the Assembly Committee on Public Safety and



1 the Chair of the Senate ~~Judiciary~~ Committee *on Criminal*
2 *Procedure*, or their designees, and the remainder shall be
3 appointed as follows:

4 (1) The Senate Committee on Rules shall appoint a
5 citizen member, a public defender or member of the
6 criminal defense bar, and a judge of a juvenile court. The
7 Speaker of the Assembly shall appoint a district attorney,
8 a representative from the field of education, and a citizen
9 member.

10 (2) The Governor shall designate the chairperson of
11 the task force and shall appoint nine members, including
12 a county sheriff, a director of social services or
13 representative of an organization serving juveniles, the
14 Director of the Youth Authority, a chief probation officer,
15 a person who specializes in the area of substance abuse
16 treatment, a mental health professional specializing in
17 juveniles, and three other members.

18 (3) Each appointing authority shall make the required
19 appointments not later than January 15, 1995.

20 (c) The Governor or his or her designee shall call the
21 first meeting of the task force not later than February 15,
22 1995.

23 (d) In making appointments to the task force, each
24 appointing authority is encouraged to appoint persons
25 from varying backgrounds and opinions to create a
26 balanced task force. Appointments shall be made from
27 among California citizens who have demonstrated
28 abilities, vision, or experience in correctional philosophy.

29 (e) In the event of a resignation, the inability of a
30 member to continue service, or other vacancy, a new
31 member shall be appointed to the task force by the
32 original appointing authority in accordance with the
33 requirements applicable to an original appointment.

34 (f) Task force members shall be reimbursed for their
35 travel and per diem expenses.

36 (g) The chairperson shall appoint a search committee
37 reflective of the composition of the task force, which shall,
38 in turn, make recommendations to the task force
39 concerning the employment of the executive director
40 and other appropriate staff. The task force may delegate



1 to an executive committee comprised of its members the
2 responsibility of overseeing the operations of the task
3 force. This delegation, however, shall not release a task
4 force member from the obligations imposed by this title.

5 (h) Office facilities and other in-kind service shall be
6 provided by the Department of the Youth Authority.

7 SEC. 8. Section 13810 of the Penal Code is amended
8 to read:

9 13810. There is hereby created in the state
10 government the California Council on Criminal Justice,
11 which shall be composed of the following members: the
12 Attorney General; the Administrative Director of the
13 Courts; 19 members appointed by the Governor,
14 including the Commissioner of the Department of the
15 Highway Patrol, the Director of the Department of
16 Corrections, the Director of the Department of the Youth
17 Authority, and the State Public Defender; eight members
18 appointed by the Senate Rules Committee; and eight
19 members appointed by the Speaker of the Assembly.

20 The remaining appointees of the Governor shall
21 include different persons from each of the following
22 categories: a district attorney, a sheriff, a county public
23 defender, a county probation officer, a member of a city
24 council, a member of a county board of supervisors, a
25 faculty member of a college or university qualified in the
26 field of criminology, police science, or law, a person
27 qualified in the field of criminal justice research and six
28 private citizens, including a representative of a citizens,
29 professional, or community organization. The Senate
30 Committee on Rules shall include among its
31 appointments different persons from each of the
32 following categories: a member of the Senate Committee
33 on ~~Judiciary~~ *Criminal Procedure*, a representative of the
34 counties, a representative of the cities, a judge designated
35 by the Judicial Council, and four private citizens,
36 including a representative of a citizens, professional, or
37 community organization. The Speaker of the Assembly
38 shall include among his appointments different persons
39 from each of the following categories: a representative of
40 the counties, a representative of the cities, a member of



1 the Assembly Committee on ~~Criminal Justice~~ *Public*
2 *Safety*, a chief of police, a peace officer, and three private
3 citizens, including a representative of a citizens,
4 professional, or community organization directly related
5 to delinquency prevention.

6 The Governor shall select a chairman from among the
7 members of the council.

8 SEC. 9. Section 13881 of the Penal Code is amended
9 to read:

10 13881. (a) There is hereby established in the Office
11 of Criminal Justice Planning a program of financial and
12 technical assistance for district attorneys' offices,
13 designated the California Major Narcotic Vendors
14 Prosecution Law. All funds appropriated to the Office of
15 Criminal Justice Planning for the purposes of this chapter
16 shall be administered and disbursed by the executive
17 director of the office in consultation with the California
18 Council on Criminal Justice, and shall to the greatest
19 extent feasible be coordinated or consolidated with
20 federal funds that may be made available for these
21 purposes.

22 (b) The executive director is authorized to allocate
23 and award funds to counties in which the California Major
24 Narcotic Vendors Prosecution Law is implemented in
25 substantial compliance with the policies and criteria set
26 forth in this chapter.

27 (c) The allocation and award of funds shall be made
28 upon application executed by the county's district
29 attorney and approved by its board of supervisors. Funds
30 disbursed under this chapter shall not supplant local
31 funds that would, in the absence of the California Major
32 Narcotic Vendors Prosecution Law, be made available to
33 support the prosecution of felony drug cases. Funds
34 available under this program shall not be subject to
35 review, as specified in Section 14780 of the Government
36 Code.

37 (d) The executive director shall prepare and issue
38 written program and administrative guidelines and
39 procedures for the California Major Narcotic Vendors
40 Prosecution Program consistent with this chapter, which



1 shall be submitted to the Chairpersons of the Assembly
2 Public Safety Committee and the Senate ~~Judiciary~~
3 Committee on *Criminal Procedure*. These guidelines
4 shall permit the selection of a county for the allocation
5 and award of funds only on a finding by the Office of
6 Criminal Justice Planning that the county is experiencing
7 a proportionately significant increase in major narcotic
8 cases. Further, the guidelines shall provide for the
9 allocation and award of funds to small county applicants,
10 as designated by the executive director. The guidelines
11 shall also provide that any funds received by a county
12 under this chapter shall be used only for the prosecution
13 of cases involving major narcotic dealers. For purposes of
14 this subdivision, “small county” means a county having a
15 population of 200,000 or less.

16 SEC. 10. This act is an urgency statute necessary for
17 the immediate preservation of the public peace, health,
18 or safety within the meaning of Article IV of the
19 Constitution and shall go into immediate effect. The facts
20 constituting the necessity are:

21 In order to reflect the current jurisdiction of the Senate
22 Judiciary Committee and the creation of the Senate
23 Committee on Criminal Procedure in relevant statutes,
24 it is necessary that this act take effect immediately.

