

AMENDED IN SENATE JUNE 22, 2000
AMENDED IN ASSEMBLY MAY 30, 2000
AMENDED IN ASSEMBLY APRIL 25, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2506

**Introduced by Assembly Members Romero and Ashburn
(Coauthors: Assembly Members Campbell and Keeley)**

February 24, 2000

~~An act relating to prisons.~~ *An act to amend Section 1203.016 of the Penal Code, and to amend Section 14601.9 of the Vehicle Code, relating to vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2506, as amended, Romero. ~~Prisons: early release~~
Vehicles: driver's license violations: referral program.

(1) Existing law imposes specified sentencing and fine sanctions upon persons found guilty of violating provisions prohibiting the driving of vehicles without a license, as specified.

Until January 1, 2004, existing law authorizes the district attorneys of certain counties, with the approval of the board of supervisors, to establish a pilot program for persons who plead guilty or no contest or are convicted of violations of specified provisions prohibiting driving without a valid driver's license. Under the program, and subject to the approval of the court, the district attorney is authorized to enter into a written agreement with a person in a case

involving a violation of the specified provisions in which the person agrees to the following, in lieu of the imposition of a county jail sentence: (1) a home detention program utilizing an electronic monitoring program, as specified, for not less than the minimum jail sentence, and not more than the maximum jail sentence, provided for a violation of the specified provisions, and (2) a class or classes relating to driving without a valid driver's license, as specified.

Existing law authorizes the board of supervisors of any county to authorize the correctional administrator, as defined, to offer a program under which minimum security inmates and low-risk offenders committed to a county jail or other county correctional facility or granted probation, or inmates participating in a work furlough program, may voluntarily participate in a home detention program during their sentence in lieu of confinement in the county jail or other county correctional facility or program under the auspices of the probation officer. The correctional administrator, or his or her designee, has the sole discretionary authority to permit program participation as an alternative to physical custody.

This bill would require that persons referred to the specified pilot program be allowed to participate in the home detention program. Participation would be in addition to those persons selected for participation in the home detention program by the correctional administrator. The bill would specify that a sentence to confinement in the county jail or other county correctional facility, the granting of probation, or participation in a work furlough program are not prerequisites for participation in the home detention program by persons referred to the specified pilot program.

Because this requirement would impose additional duties upon the existing county home detention programs, the bill would create a state-mandated local program by increasing the level of service required of those local governmental entities.

(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, including the creation of a State Mandates Claims Fund to pay the costs of



mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

~~Existing law permits inmates to be released early from county or city jails because of overcrowding as long as certain requirements are met.~~

~~This bill would create a one year pilot program in Los Angeles County in which any prisoner released from jail because of overcrowding would be required finish the remainder of his or her sentence in a home confinement or electronic monitoring program, as defined. This bill would also provide that the inmate's inability to pay the fees for this program shall not preclude release pursuant to these provisions, and eligibility for release shall not be enhanced by an ability to pay.~~

~~Because this bill would impose new duties on local correctional agencies, it would impose a state-mandated local program.~~

~~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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~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: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1.—A pilot project is hereby created in Los
2



1 SECTION 1. Section 1203.016 of the Penal Code is
2 amended to read:

3 1203.016. (a) (1) Notwithstanding any other
4 provision of law, the board of supervisors of any county
5 may authorize the correctional administrator, as defined
6 in subdivision (h), to offer a program under which
7 minimum security inmates and low-risk offenders
8 committed to a county jail or other county correctional
9 facility or granted probation, or inmates participating in
10 a work furlough program, may voluntarily participate in
11 a home detention program during their sentence in lieu
12 of confinement in the county jail or other county
13 correctional facility or program under the auspices of the
14 probation officer.

15 (2) Notwithstanding any other provision of law,
16 persons referred to the pilot program authorized under
17 Section 14601.9 of the Vehicle Code shall be allowed to
18 participate in the home detention program. Those
19 persons shall be allowed to participate in the home
20 detention program in addition to the participants
21 selected by the correctional administrator. A sentence to
22 confinement in the county jail or other county
23 correctional facility, the granting of probation, or
24 participation in a work furlough program are not
25 prerequisites for participation in the home detention
26 program by persons referred to the pilot program
27 authorized under Section 14601.9 of the Vehicle Code.

28 (b) The board of supervisors may prescribe reasonable
29 rules and regulations under which a home detention
30 program may operate. As a condition of participation in
31 the home detention program, the inmate or other person
32 shall give his or her consent in writing to participate in the
33 home detention program and shall in writing agree to
34 comply with the rules and regulations of the program,
35 including, but not limited to, the following rules:

36 (1) The participant shall remain within the interior
37 premises of his or her residence during the hours
38 designated by the correctional administrator.

39 (2) The participant shall admit any person or agent
40 designated by the correctional administrator into his or



1 her residence at any time for purposes of verifying the
2 participant's compliance with the conditions of his or her
3 detention.

4 (3) The participant shall agree to the use of electronic
5 monitoring or supervising devices for the purpose of
6 helping to verify his or her compliance with the rules and
7 regulations of the home detention program. The devices
8 shall not be used to eavesdrop or record any conversation,
9 except a conversation between the participant and the
10 person supervising the participant ~~which is to be used,~~
11 *and then* solely for the purposes of voice identification.

12 (4) The participant shall agree that the correctional
13 administrator in charge of the county correctional facility
14 from which the participant was released may, without
15 further order of the court, immediately retake the person
16 into custody to serve the balance of his or her sentence if
17 the electronic monitoring or supervising devices are
18 unable for any reason to properly perform their function
19 at the designated place of home detention, if the person
20 fails to remain within the place of home detention as
21 stipulated in the agreement, if the person willfully fails to
22 pay fees to the provider of electronic home detention
23 services, as stipulated in the agreement, subsequent to
24 the written notification of the participant that the
25 payment has not been received and that return to
26 custody may result, or if the person for any other reason
27 no longer meets the established criteria under this
28 section. A copy of the agreement shall be delivered to the
29 participant and a copy retained by the correctional
30 administrator. *This paragraph does not apply to the*
31 *participants described in paragraph (2) of subdivision*
32 *(a).*

33 (c) Whenever the peace officer supervising a
34 participant has reasonable cause to believe that the
35 participant is not complying with the rules or conditions
36 of the program, or that the electronic monitoring devices
37 are unable to function properly in the designated place
38 of confinement, the peace officer may, under general or
39 specific authorization of the correctional administrator,
40 and without a warrant of arrest, retake the person into



1 custody to complete the remainder of the original
2 sentence. *This subdivision does not apply to the*
3 *participants described in paragraph (2) of subdivision*
4 *(a).*

5 (d) ~~Nothing~~ *Except as required under paragraph (2)*
6 *of subdivision (a), nothing* in this section shall be
7 construed to require the correctional administrator to
8 allow a person to participate in this program if it appears
9 from the record that the person has not satisfactorily
10 complied with reasonable rules and regulations while in
11 custody. ~~▲~~ *Except as required under paragraph (2) of*
12 *subdivision (a), a person shall be eligible for participation*
13 *in a home detention program only if the correctional*
14 *administrator concludes that the person meets the*
15 *criteria for release established under this section and that*
16 *the person's participation is consistent with any*
17 *reasonable rules and regulations prescribed by the board*
18 *of supervisors or the administrative policy of the*
19 *correctional administrator.*

20 (1) The rules and regulations and administrative
21 policy of the program shall be written and reviewed on
22 an annual basis by the county board of supervisors and the
23 correctional administrator. The rules and regulations
24 shall be given to or made available to any participant
25 upon request.

26 (2) ~~The~~ *Except as required under paragraph (2) of*
27 *subdivision (a), the correctional administrator, or his or*
28 *her designee, shall have the sole discretionary authority*
29 *to permit program participation as an alternative to*
30 *physical custody. All persons referred or recommended*
31 *by the court to participate in the home detention*
32 *program pursuant to subdivision (e) who are denied*
33 *participation or all persons removed from program*
34 *participation shall be notified in writing of the specific*
35 *reasons for the denial or removal. The notice of denial or*
36 *removal shall include the participant's appeal rights, as*
37 *established by program administrative policy.*

38 (e) The court may recommend or refer a person to the
39 correctional administrator for consideration for
40 placement in the home detention program. The



1 recommendation or referral of the court shall be given
2 great weight in the determination of acceptance or
3 denial. At the time of sentencing or at any time that the
4 court deems it necessary, the court may restrict or deny
5 the defendant's participation in a home detention
6 program.

7 (f) The correctional administrator may permit home
8 detention program participants to seek and retain
9 employment in the community, attend psychological
10 counseling sessions or educational or vocational training
11 classes, or seek medical and dental assistance. Willful
12 failure of the program participant to return to the place
13 of home detention not later than the expiration of any
14 period of time during which he or she is authorized to be
15 away from the place of home detention pursuant to this
16 section and unauthorized departures from the place of
17 home detention are punishable as provided in Section
18 4532.

19 (g) The board of supervisors may prescribe a program
20 administrative fee to be paid by each home detention
21 participant that shall be determined according to his or
22 her ability to pay. Inability to pay all or a portion of the
23 program fees shall not preclude participation in the
24 program, and eligibility shall not be enhanced by reason
25 of ability to pay. All program administration and
26 supervision fees shall be administered in compliance with
27 Section 1208.2.

28 (h) As used in this section, the following words have
29 the following meanings:

30 (1) "Correctional administrator" means the sheriff,
31 probation officer, or director of the county department of
32 corrections.

33 (2) "Minimum security inmate" means an inmate
34 who, by established local classification criteria, would be
35 eligible for placement in a Type IV local detention
36 facility, as described in Title 15 of the California Code of
37 Regulations, or for placement into the community for
38 work or school activities, or who is determined to be a
39 minimum security risk under a classification plan



1 developed pursuant to Section 1050 of Title 15 of the
2 California Code of Regulations.

3 (3) “Low-risk offender” means a probationer, as
4 defined by the National Institute of Corrections model
5 probation system.

6 (i) Notwithstanding any other law, the police
7 department of a city where an office is located to which
8 persons on an electronic monitoring program report may
9 require the county correctional administrator to provide
10 information concerning those persons. This information
11 shall be limited to the name, address, date of birth, and
12 offense committed by the home detainee. Any
13 information received by a police department pursuant to
14 this paragraph shall be used only for the purpose of
15 monitoring the impact of home detention programs on
16 the community.

17 (j) It is the intent of the Legislature that home
18 detention programs established under this section
19 maintain the highest public confidence, credibility, and
20 public safety. In the furtherance of these standards, the
21 following shall apply:

22 (1) The correctional administrator, with the approval
23 of the board of supervisors, may administer a home
24 detention program pursuant to written contracts with
25 appropriate public or private agencies or entities to
26 provide specified program services. No public or private
27 agency or entity may operate a home detention program
28 in any county without a written contract with that
29 county’s correctional administrator. However, this does
30 not apply to the use of electronic monitoring by the
31 California Department of Corrections or the Department
32 of the Youth Authority as established in Section 3004. No
33 public or private agency or entity entering into a contract
34 may itself employ any person who is in the home
35 detention program.

36 (2) ~~Program~~ *Except as required under paragraph (2)*
37 *of subdivision (a), program* acceptance shall not
38 circumvent the normal booking process for sentenced
39 offenders. All home detention program participants shall
40 be supervised.



1 (3) (A) All privately operated home detention
2 programs shall be under the jurisdiction of, and subject to
3 the terms and conditions of the contract entered into
4 with, the correctional administrator.

5 (B) Each contract shall include, but not be limited to,
6 all of the following:

7 (i) A provision whereby the private agency or entity
8 agrees to operate in compliance with any available
9 standards promulgated by state correctional agencies and
10 bodies, including the Board of Corrections, and all
11 statutory provisions and mandates, state and county, as
12 appropriate and applicable to the operation of home
13 detention programs and the supervision of sentenced
14 offenders in a home detention program.

15 (ii) A provision that clearly defines areas of respective
16 responsibility and liability of the county and the private
17 agency or entity.

18 (iii) A provision that requires the private agency or
19 entity to demonstrate evidence of financial responsibility,
20 submitted and approved by the board of supervisors, in
21 amounts and under conditions sufficient to fully
22 indemnify the county for reasonably foreseeable public
23 liability, including legal defense costs, that may arise
24 from, or be proximately caused by, acts or omissions of the
25 contractor. The contract shall provide for annual review
26 by the correctional administrator to ensure compliance
27 with requirements set by the board of supervisors and for
28 adjustment of the financial responsibility requirements if
29 warranted by caseload changes or other factors.

30 (iv) A provision that requires the private agency or
31 entity to provide evidence of financial responsibility, such
32 as certificates of insurance or copies of insurance policies,
33 prior to commencing any operations pursuant to the
34 contract or at any time requested by the board of
35 supervisors or correctional administrator.

36 (v) A provision that permits the correctional
37 administrator to immediately terminate the contract
38 with a private agency or entity at any time that the
39 contractor fails to demonstrate evidence of financial
40 responsibility.



1 (C) All privately operated home detention programs
2 shall comply with all appropriate, applicable ordinances
3 and regulations specified in subdivision (a) of Section
4 1208.

5 (D) The board of supervisors, the correctional
6 administrator, and the designee of the correctional
7 administrator shall comply with Section 1090 of the
8 Government Code in the consideration, making, and
9 execution of contracts pursuant to this section.

10 (E) The failure of the private agency or entity to
11 comply with statutory provisions and requirements or
12 with the standards established by the contract and with
13 the correctional administrator may be sufficient cause to
14 terminate the contract.

15 (F) Upon the discovery that a private agency or entity
16 with whom there is a contract is not in compliance
17 pursuant to this paragraph, the correctional
18 administrator shall give 60 days' notice to the director of
19 the private agency or entity that the contract may be
20 canceled if the specified deficiencies are not corrected.

21 (G) Shorter notice may be given or the contract may
22 be canceled without notice whenever a serious threat to
23 public safety is present because the private agency or
24 entity has failed to comply with this section.

25 (k) For purposes of this section, "evidence of financial
26 responsibility" may include, but is not limited to, certified
27 copies of any of the following:

- 28 (1) A current liability insurance policy.
- 29 (2) A current errors and omissions insurance policy.
- 30 (3) A surety bond.

31 *SEC. 2. Section 14601.9 of the Vehicle Code is*
32 *amended to read:*

33 14601.9. (a) The district attorney of ~~any~~ of the
34 ~~Counties~~ County of Alameda, Kern, Los Angeles, Orange,
35 Placer, Sacramento, San Joaquin, San Luis Obispo, ~~and~~ or
36 Santa Barbara, with the approval of the board of
37 supervisors, may establish a pilot program ~~of~~ for persons
38 who plead guilty or no contest or who are found guilty of
39 a violation of Section 14601, 14601.1, or 14601.3. The



1 district attorney may conduct the program or contract
2 with a private entity to conduct the program.

3 (b) Subject to the approval of the court, a person who
4 pleads guilty or no contest *to a violation of*, or is convicted
5 of ~~violating~~ *a violation of*, Section 14601, 14601.1, or
6 14601.3 may enter into a written agreement with—~~a~~ *the*
7 district attorney of a county described in subdivision (a).
8 If the court determines that the particular case is
9 appropriate for referral to ~~a~~ *the* program described in this
10 section, the judge may make an order directing the
11 person to comply with the terms of the agreement.
12 Participation in the program shall be in lieu of imposing
13 a jail sentence under Section 14601, 14601.1, or 14601.3.
14 The agreement shall require the person to complete all
15 of the following elements within 60 days or within the
16 term of the maximum jail sentence allowed under Section
17 14601, 14601.1, or 14601.3, whichever period is longer:

18 (1) A home detention program utilizing an electronic
19 monitoring program that complies with Section 1203.016
20 of the Penal Code, for not less than the minimum jail
21 sentence, and not more than the maximum jail sentence,
22 provided under Section 14601, 14601.1, or 14601.3, as
23 applicable. The court may allow a person to attend school,
24 work, or other specified activities while on electronic
25 monitoring.

26 (2) One or more classes conducted by the district
27 attorney or by a private entity under contract with the
28 district attorney. The class or classes, at a minimum, shall
29 provide instruction on all of the following:

30 (A) The requirements imposed under Section 14601,
31 14601.1, or 14601.3, including, but not limited to, the
32 penalties for violating those provisions.

33 (B) Available transportation alternatives for persons
34 who do not have a valid driver's license.

35 (C) The procedure for regaining the privilege to
36 drive.

37 (c) No statement, or information procured from a
38 statement, made by the person in connection with the
39 determination of his or her eligibility for the program,
40 and no statement, or information procured from a



1 statement, made by the person, subsequent to the
2 granting of the program or while participating in the
3 program, and no information contained in any report
4 made with respect thereto, and no statement or other
5 information concerning the person's participation in the
6 program ~~shall be~~ *is* admissible in any action or
7 proceeding.

8 (d) The court may impose any fine allowed under
9 Section 14601, 14601.1, or 14601.3 upon a person who is
10 ordered to participate in the program.

11 (e) (1) The district attorney may recover fees for the
12 program from participants or may provide for recovery
13 of fees from participants by a private entity operating the
14 program under contract.

15 (2) The recoverable fees described in this subdivision
16 shall be charged to the participant in accordance with a
17 fee schedule that has been approved by the board of
18 supervisors or the district attorney, or designee of the
19 district attorney. The fees charged for the program may
20 be modified or waived by the district attorney or designee
21 at any time based on the present or changing financial
22 position of the participant. No person shall be denied
23 participation in the program due to an inability to pay for
24 the program.

25 (f) ~~Notwithstanding Section 7550.5 of the~~
26 ~~Government Code, not~~ *Not* later than December 31,
27 2003, the district attorney of every county that elects to
28 participate in the pilot program specified in subdivision
29 (a) shall prepare and submit a report to the Legislature
30 concerning that county's participation in the program.

31 (g) This section shall remain in effect only until
32 January 1, 2004, and as of that date is repealed, unless a
33 later enacted statute that is enacted before January 1,
34 2004, deletes or extends that date.

35 *SEC. 3. Notwithstanding Section 17610 of the*
36 *Government Code, if the Commission on State Mandates*
37 *determines that this act contains costs mandated by the*
38 *state, reimbursement to local agencies and school*
39 *districts for those costs shall be made pursuant to Part 7*
40 *(commencing with Section 17500) of Division 4 of Title*



1 2 of the Government Code. If the statewide cost of the
2 claim for reimbursement does not exceed one million
3 dollars (\$1,000,000), reimbursement shall be made from
4 the State Mandates Claims Fund.

5 Angeles County to do the following:

6 (a) ~~In the event that an inmate is released pursuant to~~
7 ~~Section 4024.1, he or she shall be required to finish the~~
8 ~~remainder of his or her sentence in a home confinement~~
9 ~~or electronic monitoring system that meets the~~
10 ~~requirements of Section 1203.016 and is under the~~
11 ~~supervision of the county's chief corrections officer.~~

12 (b) ~~An inmate's inability to pay all or a portion of the~~
13 ~~fees for a program of home confinement or electronic~~
14 ~~monitoring system shall not preclude release pursuant to~~
15 ~~this section, and eligibility for release shall not be~~
16 ~~enhanced by reason of the inmate's ability to pay.~~

17 (c) ~~As used in this section "electronic monitoring"~~
18 ~~includes, the following:~~

19 (1) ~~The use of a device that has the following~~
20 ~~attributes:~~

21 (A) ~~The device is designed to be worn by a human~~
22 ~~being.~~

23 (B) ~~The device emits a signal as a person is moving or~~
24 ~~stationary.~~

25 (C) ~~The device functions 24 hours per day.~~

26 (D) ~~The device is resistant or impervious to~~
27 ~~unintentional or willful damage.~~

28 (2) ~~A system of continuous electronic monitoring that~~
29 ~~includes computer software and hardware and other~~
30 ~~equipment as may be necessary to identify the location,~~
31 ~~direction, and speed of movement of the person wearing~~
32 ~~the transmitting device.~~

33 (3) ~~The use of all forms of monitoring technologies,~~
34 ~~provided they meet the specifications and requirements~~
35 ~~for supervision established by the county's chief~~
36 ~~corrections officer.~~

37 (d) ~~This section shall remain in effect only until~~
38 ~~January 1, 2002, and as of that date is repealed, unless a~~
39 ~~later enacted statute, that is enacted before January 1,~~
40 ~~2002, deletes or extends that date.~~



1 ~~SEC. 2. Notwithstanding Section 17610 of the~~
2 ~~Government Code, if the Commission on State Mandates~~
3 ~~determines that this act contains costs mandated by the~~
4 ~~state, reimbursement to local agencies and school~~
5 ~~districts for those costs shall be made pursuant to Part 7~~
6 ~~(commencing with Section 17500) of Division 4 of Title~~
7 ~~2 of the Government Code. If the statewide cost of the~~
8 ~~claim for reimbursement does not exceed one million~~
9 ~~dollars (\$1,000,000), reimbursement shall be made from~~
10 ~~the State Mandates Claims Fund.~~

