

Date of Hearing: March 22, 2022

Counsel: Liah Burnley

**ASSEMBLY COMMITTEE ON PUBLIC SAFETY**

Reginald Byron Jones-Sawyer, Sr., Chair

AB 2023 (Bennett) – As Amended March 16, 2022

**SUMMARY:** Entitles a person incarcerated in, or recently released from, a county jail to have access to up to three free telephone calls in the county jail to plan for a safe and successful release. Specifically, **this bill**:

- 1) Requires the sheriff to make the county jail's release standards, processes, and schedules available to a person following the determination to release the person.
- 2) Requires county jail release standards to include the timeframe for the expected release of a person, following the determination to release the person, and that the person is entitled to up to three free telephone calls.
- 3) States that a person incarcerated in, or recently released from, a county jail shall have access to up to three free telephone calls in the county jail.
- 4) States that these rights apply to any person being released from a county jail, including but not limited to a person who has completed a sentence served by a person or the release of a person ordered by the court to be effected the same day, including persons released on their own recognizance, have their charges dismissed by the court, are acquitted by a jury, are cited and released on a misdemeanor charge, have posted bail, or have the charges against them dropped by the prosecutor.

**EXISTING LAW:**

- 1) States that the sheriff may discharge any person from the county jail at such time on the last day such person may be confined as the sheriff shall consider to be in the best interests of the person. (Pen. Code, § 4024, subd. (a).)
- 2) Provides that upon completion of a sentence served by a person or the release of a person ordered by the court to be effected the same day, including persons that are released on their own recognizance, have their charges dismissed by the court, are acquitted by a jury, are cited and released on a misdemeanor charge, have posted bail, or have the charges against them dropped by the prosecutor, the sheriff may offer a voluntary program to the person that would allow that person to stay in the custody facility for up to 16 additional hours or until normal business hours, whichever is shorter, in order to offer the person the ability to be discharged to a treatment center or during daytime hours. The person may revoke their consent and be discharged as soon as possible and practicable. (Pen. Code, § 4024, subd. (b).)

- 3) States that a sheriff offering this program shall, whenever possible, allow the person volunteering to participate in the program to make a telephone call to either arrange for transportation, or to notify the bail agent, or both. (Pen. Code, § 4024, subd. (b)(5).)
- 4) Authorizes the sheriff, or any other person responsible for a county jail, to apply to the presiding judge of the superior court to receive general authorization for a period of 30 days to release inmates to relieve overcrowding, as specified. (Pen. Code, § 4024.1.)
- 5) Provides that a peace officer may release from custody, instead of taking the person before a magistrate, a person arrested without a warrant in specified circumstances. (Pen. Code, § 849, subd. (b).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, "Many inmates suffering from mental illness receive health care services while incarcerated. However, justice system personnel, behavioral health and service practitioners, researchers, and policymakers agree that a continuum of care is needed to ensure successful treatment. As the new CalAIM program regarding in-jail services continues to evolve this year at the Department of Health Care Services, AB 2023 will help ensure individuals released from county jails are given release information and access to free telephone calls."
- 2) **Need for the Bill:** SB 42 (Skinner), of the 2019-2020 Legislative Session, the "*Getting Home Safe Act*" would have required that all county jails follow specified procedures for releasing a person from jail to ensure that person's safety, including providing a safe place for the person to wait after release during evening hours. Like this bill, SB 42 would have required a county jail to provide to a person incarcerated in or recently released from county jail up to three free telephone calls from a telephone in the county jail to plan for a safe and successful release. SB 42 would have also required county sheriffs to make the release standards, release processes, and release schedules of a county jail available to the public, post them on the sheriff's website, and make them available to individuals upon being booked into a county jail. SB 42 specified that the release standards provided to a prisoner must include the list of rights enumerating that a person has to be safely released from county jail, including the timeframe for the expedient release of a person following the determination to release that person by a judge, jury, or appropriate county staff member.

SB 42 was more expansive than this bill because it also would have required the sheriff to offer to a person scheduled to be released from jail after sundown the ability to be discharged during daytime hours; the opportunity to have a safe place to wait for transportation; adequate and sufficient ability to charge a personal cell phone; access to a free public telephone; and, at least three days' supply of any necessary medication that the person was receiving when they were incarcerated.

SB 42 was vetoed. The Governor's veto message explained that "Jails should not be releasing people onto the streets during overnight hours. This is simply an unsafe practice, resulting in many tragic and preventable outcomes over the years. At a very minimum, facilities should absolutely provide a safe place to wait and arrange safe transportation when

late night discharges do occur. However, this bill requires that individuals are permitted to stay in jail until morning if desired, therefore creating a significant state reimbursable mandate. [SB 42]’s intent can be accomplished through a more tailored approach that does not put the state treasury on the hook for local jail operations costs which are a local responsibility.”

This bill is a more narrow approach. Specifically, this bill would provide that a person incarcerated in or recently released from county jail shall have access to up to three telephone calls from a telephone in the county jail to plan for a safe and successful release. This bill would also require a county sheriff to make a jail’s release standards, processes, and schedules available to a person following the determination to release the person, and specifies that the release standards shall include the list of the rights provided for in this bill, which include the timeframe of the release of the person, and that the person is entitled to up to three phone calls. Unlike SB 42, this bill is less burdensome for local jails.

- 3) **Argument in Support:** According to the *California Judges Association*, the sponsor of the bill, “Discharge planning at our county jails is crucial as incarcerated individuals being released are at a critical junction when reintegrating into society. Our mental health judges see those counties with robust discharge planning as having lower recidivism rates and help address the issues of homelessness, substance abuse and medical treatment. Last year, AB 133 (Assembly Committee on Budget) was enacted to establish the California Advancing and Innovating Medi-Cal (CalAIM) within the Department of Health Care Services. One of CalAIM’s directives is to engage with in-custody jail inmates for Medi-Cal pre-enrollment as well as connecting these individuals with services upon their release. These “warm handoffs”, as its commonly referred to by judges, assists these recently released individuals have access to medications, housing, transportation, and other needed services. CalAIM will start engaging in our county jails starting on January 1, 2023 and has the opportunity to really help this recently incarcerated population.

“AB 2023 is part of a larger effort to improve discharge planning overall. Specifically, this bill seeks to ensure that county jail inmates have access to release information, such as release standards, release processes and release schedules. Additionally, this bill grants these inmates, before their release or right upon the time of their release, with access to up to three free telephone calls. The California Judges Association believes that granting information about their release and the ability to make free telephone calls will help with coordinate of transportation from jail and the opportunity to arrange for housing and medical appointments.”

- 4) **Argument in Opposition:** According to

5) **Prior Legislation:**

- a) AB 133 (Committee on Budget), Chapter, 143, Statutes of 2021, requires the a Department of Health Care Services to develop and implement a mandatory process for county jails and county juvenile facilities to coordinate with Medi-Cal managed care plans and Medi-Cal behavioral health delivery systems to facilitate continued behavioral health treatment in the community for inmates and requires that a qualifying inmate of a public institution be eligible to receive targeted Medi-Cal services, prior to the date they

are released from a public institution, if otherwise eligible for the services.

- b) SB 42 (Skinner), of the 2019-2020 Legislative Session, would have required county sheriffs to make the release standards, release processes, and release schedules of a county jail available to the public, post them on the sheriff's website, and make them available to individuals upon being booked into a county jail. SB 42 was vetoed.
- c) SB 833 (Liu), Chapter 90, Statutes of 2014, authorizes the sheriff to offer a voluntary program to an inmate, upon completion of a sentence served or a release ordered by the court to be effected the same day, that would allow the inmate to stay in the custody facility for up to 16 additional hours or until normal business hours, whichever is shorter, in order to offer the inmate the ability to be discharged to a treatment center or during daytime hours, as specified.

**REGISTERED SUPPORT / OPPOSITION:****Support**

California Catholic Conference  
California Judges Association  
California Public Defenders Association  
County Behavioral Health Directors Association of California  
National Association of Social Workers, California Chapter (NASW-CA)  
Steinberg Institute

**Opposition**

None

**Analysis Prepared by:** Liah Burnley / PUB. S. / (916) 319-3744