

Date of Hearing: April 22, 2025

Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 994 (Hadwick) – As Amended March 24, 2025

As Proposed to be Amended in Committee

SUMMARY: Provides that a person currently committed to state prison who is alleged to have committed a new offense may request after consultation with counsel that any pretrial confinement pending disposition of charges for the new offense that would otherwise be served in the county jail be served at the state prison at which the prisoner is currently confined, unless the person is otherwise eligible for and obtains pretrial release. Provides that this request shall be made in the court with jurisdiction and may be made through the person's counsel.

EXISTING LAW:

- 1) Provides that, in all criminal prosecutions, the accused shall enjoy the right...to have the assistance of counsel for his defense. (U.S. Const., 6th Amend.; Cal. Const, art. I, § 15.)
- 2) Authorizes the court, when there is no jail in the county, or when the jail becomes unfit or unsafe for the confinement of prisoners, by a written order filed with the clerk of the court, to designate the jail of a contiguous county for the confinement of any prisoner of his or her county, and authorizes the court to, at any time, modify or vacate the order. (Pen. Code, § 4007.)
- 3) Authorizes the county sheriff, when there are reasonable grounds to believe that a prisoner may be forcibly removed from a county jail, to remove the prisoner to any California state prison for safekeeping. (Pen. Code, § 4007.)
- 4) Provides that, when a prisoner is removed from county jail to state prison, it is the duty of the warden of the prison to accept and detain the prisoner in their custody until the incarcerated person's removal is ordered by the superior court of the county from which they were delivered. (Pen. Code, § 4007.)
- 5) Authorizes the court, when a county prisoner requires medical treatment necessitating hospitalization which cannot be provided at the county jail or county hospital because of lack of adequate detention facilities, and when the prisoner also presents a serious custodial problem because of his or her past or present behavior, on the request of the county sheriff and with the consent of the Secretary of the California Department of Corrections (CDCR), to designate by written order, subject to specified procedures, the nearest state prison or correctional facility which would be able to provide the necessary medical treatment and secure confinement of the prisoner. (Pen. Code, § 4007.)

- 6) Authorizes the court, when there are reasonable grounds to believe that there is a prisoner in a county jail who is likely to be a threat to other persons in the facility or who is likely to cause substantial damage to the facility, on the request of the county sheriff and with the consent of the Secretary of CDCR, designate by written order, subject specified procedures, the nearest state prison or correctional facility which would be able to secure confinement of the prisoner, subject to space available. (Pen. Code, § 4007.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “State prison inmates who commit new crimes while in prison tend to serve their pre-trial confinement for the new charges in county jail if their original prison release date falls after the new crime but before the completion of court proceedings on the new charges. The timing of the process when a defendant faces new charges as described results in risk to the security and safety of county jails that could be avoided by having the California Department of Corrections and Rehabilitation maintain custody of these defendants. AB 994 allows an inmate near the end of their prison sentence who has committed a new crime to stay in prison for pre-trial confinement instead of a county jail. This addresses safety issues stemming from housing former state prison inmates with county jail inmates and promotes efficiency within our state and local correctional systems.”
- 2) **Effect of the Bill:** Existing law authorizes a court, when there are reasonable grounds to believe that there is a prisoner in a county jail who is likely to be a threat to other persons in the facility or who is likely to cause substantial damage to the facility, on the request of the county sheriff and with the consent of the Secretary of CDCR, to designate by written order the nearest state prison or correctional facility which would be able to secure confinement of the prisoner, subject to space available. (Pen. Code, § 4007.) Existing law also provides, among other things, that a hearing shall be held within 48 hours of the initial order or the next judicial day, whichever occurs later; that the prisoner shall be entitled to be present at the hearing and to be represented by counsel; and that the rate of compensation for the prisoner’s confinement within a California state prison or correctional facility shall be established by CDCR and shall be charged against the county making the request. (Pen. Code, § 4007.)

This bill would provide that a person currently committed to state prison who is alleged to have committed a new offense may request after consultation with counsel that any pretrial confinement pending disposition of charges for the new offense that would otherwise be served in the county jail be served at the state prison at which the prisoner is currently confined, unless the person is otherwise eligible for and obtains pretrial release. It also would provide that this request shall be made in the court with jurisdiction and may be made through the person’s counsel.

- 3) **Criminal Justice Realignment:** In November 2006, plaintiffs in two class action lawsuits—*Plata v. Brown* (involving CDCR medical care) and *Coleman v. Brown* (involving CDCR mental health care)—filed motions for the courts to convene a three-judge panel pursuant to the federal Prison Litigation Reform Act. The plaintiffs argued that persistent overcrowding in the state’s prison system was preventing CDCR from delivering constitutionally adequate

health care to incarcerated persons. The three-judge panel declared that overcrowding in the state's prison system was the primary reason that CDCR was unable to provide incarcerated persons with constitutionally adequate health care. In January 2010, the three-judge panel issued its final ruling ordering the State of California to reduce its prison population by approximately 50,000 individuals in the next two years. (*Coleman/Plata vs. Schwarzenegger* (2010) No. Civ S-90-0520 LKK JFM P/NO. C01-1351 THE.)

The United States Supreme Court upheld the decision of the three-judge panel, declaring that “without a reduction in overcrowding, there will be no efficacious remedy for the unconstitutional care of the sick and mentally ill” persons in California's prisons. (*Brown v. Plata* (2011) 131 S.Ct. 1910, 1939.) Without changes to how the prison population was managed, the court decisions could have led to arbitrary release of tens of thousands of people in prison.

AB 109 (Committee on Budget), Chapter 15, Statutes of 2011, enacted Criminal Justice Realignment that, among other things, limited which felons could be sent to state prison and required more persons convicted of felonies to serve their sentences in county jails. Realignment also affected parole supervision after release from custody, providing that most persons could no longer be returned to state prison for violating a term of supervision; they would serve their revocation terms in county jail.

This bill would remove from county jail a few individuals typically housed there while awaiting trial, instead serving their pretrial confinement period in state prison.

- 4) **Argument in Support:** According to the *California State Sheriffs' Association*, the bill's sponsor: “If an inmate commits a crime while incarcerated in the state prison, they are typically housed at the local county jail in the jurisdiction where the crime occurred upon their prison release date. If not subject to pre-trial release, the inmate is housed in the county jail until their case reaches a disposition. The prison system does not allow for inmates to remain in its custody as it is not currently authorized to house offenders that are not formally sentenced to state prison.

“County jails were not typically designed to house multiple high-level offenders and often experience classification problems when it comes to housing. Many of the offenders are in custody for multiple violent offenses or have a history of violent offenses. This includes assault on peace officers or homicide. This has caused high-level offenders to be housed in jails built for mainly minimum to medium custody inmates. As time has passed, this has caused an increase in violent incidents in local facilities. Many local facilities have open housing with few restricted housing cells.

“The crimes in question occur while inmates are in the custody of the state prison system. In counties where the courtroom is located at the state prison, an additional burden falls to local jails by having to transport defendants back and forth to court. This adds officer safety and operational security concerns. AB 994 increases public safety as well as the security of jail facilities by allowing inmates being released from state prison with pending criminal charges to remain in state prison custody instead of county jail if they are to be confined pre-trial.”

- 5) **Argument in Opposition:** According to *California Attorneys for Criminal Justice*, “This bill would have a profound adverse impact on a criminal defendant's right to counsel and

access to justice. Specifically, the bill provides that a state prison inmate with pending charges will be housed in the state prison nearest the county in which the case is pending. There are many county seats and court houses located literally hours away by car from the nearest state prison. Yet, it is a necessity that a defense attorney, whether private counsel or a public defender, meet with their client, potentially numerous times, to render to them effective assistance of counsel consistent with the defendants' Sixth Amendment rights. The distance and travel time will axiomatically limit an attorney's ability to conveniently meet with their client to the detriment of the state prison inmate and the attorney's other clients due to the burden on the attorney's schedule.

"In addition to the foregoing grave impact to a defendant's access to justice, this bill will result in significant increased costs to the state and counties. An inmate is constitutionally entitled to be present, in person, at their court hearings. The Penal Code requires it in felony matters. Thus, the Department of Corrections and Rehabilitation or the county in which the case is pending will be obligated to transport the defendant to court, in some cases over great distances. Finally, if the defendant is represented by a public defender, the budget and attorney resources of that office will be burdened when one of their deputies travels potentially hours to meet with their appointed clients.

"In contrast to what is proposed by this bill, current practice requires a prison inmate to be housed at the county jail wherein the charges are pending. This just makes sense and it is the most pragmatic and efficient approach. County jails are, in some cases, attached to the county court and if not, they are typically situated very near the courthouse. Meeting with in-custody clients in the county jail occurs as part the standard daily routine for criminal defense attorneys in all counties throughout the state. CACJ recommends the bill be amended to vest the accused with the option to choose between either a state prison or a local county jail stay pending new changes."

- 6) **Prior Legislation:** AB 109 (Committee on Budget), Chapter 15, Statutes of 2011, enacted Criminal Justice Realignment which, among other things, limited which felons could be sent to state prison, required that more felons serve their sentences in county jails.

REGISTERED SUPPORT / OPPOSITION:

Support

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Opposition

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