

MOTION BY SUPERVISORS JANICE HAHN AND
HILDA L. SOLIS

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Reassessing AB 109 Community Corrections Funding

In 2011, California passed Assembly Bill 109 (AB 109), 2011 Public Safety Realignment, that shifted responsibility for certain low-level offenders from the state to the counties. Individuals convicted of “non-serious, non-violent, non-sex” (N3) crimes would no longer be housed in state prisons and overseen by state probation, but instead would remain in county custody and overseen by county probation. To help the counties implement their new responsibilities, the state provided an annual permanent funding stream to be used for criminal justice and rehabilitative services. Los Angeles County (County) received \$112.6M in AB 109 Community Corrections base allocation funds in FY 2011-12. The County is expected to receive \$358.3M in AB 109 Community Corrections base allocation funds in the current year; a decrease of \$66.6 million compared to the original FY 2019-20 estimates. The County also receives an AB 109 District Attorney and Public Defender base allocation-funding that is restricted to legal proceedings between the prosecution and defense and cannot be reallocated.

This major policy shift took effect only seven months after it was approved by the legislature, so the counties had little time to plan and prepare. Across California, county

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HAHN _____

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jail populations increased quickly in the first year of realignment, so most counties were allocating upwards of 70% of AB 109 Community Corrections base allocation funds to their sheriff's departments and probation departments. During the first year of Realignment, the County average daily jail population went from around 15,000 to over 18,000. The County received \$112.6M in AB 109 Community Corrections base allocation funds and allocated 63% to the Sheriff's Department and 22% to the Probation Department. Since then, the average daily jail population has mostly hovered around 17,000 and the annual AB 109 Community Corrections base allocation is projected to increase to \$358.3M in FY 2019-20.

In the nine years since AB 109 was passed, the County has begun to reimagine its criminal justice system away from incarceration and punishment, and instead towards diversion and rehabilitation. In 2015, the Board of Supervisors (Board) created the Office of Diversion and Reentry with the goal of implementing criminal justice diversion for individuals with mental illness. In 2019, the Board created the Alternatives to Incarceration (ATI) Workgroup that was composed of representatives from County departments and the community. The ATI Workgroup spent almost a year compiling 144 recommendations for a comprehensive county-wide system of care that reduces the role of incarceration and instead uplifts the role of care and community.

These moves that the Board has made over the last five years to adopt a vision of alternatives to incarceration should be accompanied by a reassessment of funding sources like the AB 109 Community Corrections base allocation. It is time to relook at the way the County spends AB 109 Community Corrections revenue and think about whether the spending breakdown aligns with the future vision that we have for the County. Because of the COVID-19 pandemic, the jail population has dramatically decreased to lower than it was before AB 109 was passed. Additionally, the County is

facing a projected decrease in AB 109 Community Corrections base allocation funds because of lost sales tax revenue. This gives us the opportunity to revisit the way the County has spent AB 109 Community Corrections funding in the past and to reassess ways we could spend AB 109 revenue in the future to support the visions put forward by the ATI Workgroup.

WE, THEREFORE MOVE that the Board of Supervisors direct the CEO, in consultation with the Sheriff's Department, Probation Department, Office of Diversion and Reentry, Alternatives to Incarceration Initiative, Public Defender, Alternate Public Defender, District Attorney, Countywide Criminal Justice Coordination Committee, Department of Mental Health, Department of Public Health, Department of Health Services, and all other relevant departments, to provide a report to the Board of Supervisors in 60 days on the following:

1. The historic annual budget of AB 109 Community Corrections funds since the bill's enactment (including one-time Community Corrections expenditures), broken down by percentages allocated to each County department and by amounts allocated to support custody programs and diversion programs
2. Projected AB 109 Community Corrections base allocation revenue shortfalls due to the COVID-19 pandemic and how it is impacting each department
3. Options for reallocating future AB 109 Community Corrections base allocation funds towards alternatives to incarceration, including, but not limited to, diversion programs, substance abuse programs, mental health treatment, housing, restorative justice programs, and community-based services, consistent with and building off of the recommendations in the

Alternatives to Incarceration Workgroup's "Care First, Jail Last" March 2020 report, including:

1. Options for revisiting the allocation process, including consideration of the inclusive model of the Juvenile Justice Coordinating Council
2. Options for revisiting the Board-directed priorities regarding AB 109 Community Corrections allocations
3. Options for reallocating future AB 109 Community Corrections base allocation funds
4. Proposed metrics and protocols for ongoing evaluation of outcomes of investments of AB 109 Community Corrections base allocation funds

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