



Lori Droste
Berkeley City Councilmember, District 8

Consent Calendar
January 29, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Lori Droste, Sophie Hahn, Rashi Kesarwani and Ben Bartlett
Subject: Support for SB 42 (Getting Home Safe Act)

Recommendation:

That the Berkeley City Council send a letter supporting SB 42, the Getting Home Safe Act, which would address dangerous, late night releases from county jails.

Financial Implications:

None.

Background:

This bill would not permit county jails to involuntarily hold someone beyond their release time, but would require that those scheduled to be released after business hours or sunset (whichever is later) be given the option to remain in the facility until the following day. If they decline, they must be provided a safe place to wait for pickup and/or free transportation to a location of their choice within the county or a 100-mile radius.

SB 42 would also create a Late Night Release Prevention Task Force to oversee implementation and progress of this Act. The bill would also ensure that people released from jail would have access to a phone charger and allowed three calls.

Senator Skinner proposed SB 42 in response to the tragic death of one of her constituents, Jessica St. Louis, who was released from Alameda County's Santa Rita Jail at 1:25 in the morning on July 28th, 2018.

Jessica St. Louis was released from Santa Rita Jail with nothing more than a BART card—even though the nearest BART station was over a mile away and wouldn't open for over four hours. At the time of her release Jessica did not have a working cell phone to contact friends or family in order to secure a safe place to go after her release. Just before sunrise, Jessica was found lifeless in front of the Dublin/Pleasanton BART station.

Environmental Sustainability:

No impact.

Contact Person:

Councilmember Lori Droste Council District 8 510-981-7180

Attachment 1: Draft letter of support

The Honorable Nancy Skinner
Member of the Senate
State Capitol, Room 2059
Sacramento, CA 95814

Re: SB 42 (Skinner) – The Getting Home Safe Act

Dear Senator Skinner,

Berkeley City Council writes in full support for SB 42. SB 42 seeks to address dangerous, late night releases from county jails.

Specifically, SB 42 would require that people scheduled to be released from jail after business hours or sunset (whichever is later) be given the option to remain in the facility until the following day. If they decline, they must be provided a safe place to wait for pickup and/or free transportation to a location of their choice within the county or a 100-mile radius. It would also require the creation of a Task Force to oversee the implementation of this Act, and require that people released from jail have access to phone chargers and the ability to make three calls prior to leaving to assist them in coordinating their release.

It's important to ensure that people who complete their jail sentences can return home safely and easily. SB 42 would address many of the logistical challenges that make traveling home difficult.

Respectfully,
Berkeley City Council

CC: Senator Nancy Skinner
Assemblymember Buffy Wicks

Introduced by Senator Skinner

December 3, 2018

An act to amend and repeal Section 4024 of, and to add Sections 4024.5 and 4024.6 to, the Penal Code, relating to jails.

LEGISLATIVE COUNSEL'S DIGEST

SB 42, as introduced, Skinner. The Getting Home Safe Act.

Existing law authorizes a county sheriff to discharge a person from a county jail at any time on the last day that the person may be confined that the sheriff considers to be in the best interests of that person. Existing law additionally authorizes a sheriff to offer a voluntary program to a person, upon completion of a sentence served or a release ordered by the court to be effected the same day, that would allow the person to stay in jail 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, as specified. Existing law authorizes the person to revoke his or her consent and be discharged as soon as possible and practicable. Existing law requires a sheriff offering this program to, whenever possible, allow the person to make a telephone call to arrange for transportation or to notify his or her bail agent, as specified.

This bill would make these provisions inoperative on June 1, 2020, and would repeal it as of January 1, 2021.

The bill, beginning June 1, 2020, would instead require the sheriff to make the release standards, release processes, and release schedules of a county jail available to the public and to incarcerated persons, as specified. The bill would provide a person with the right to request that, upon his or her release from a county jail, he or she be assisted in entering a drug or alcohol rehabilitation program, and would require

the county jail to provide or arrange transportation directly from jail to a rehabilitation program or hospital free of charge immediately upon release from jail. The bill would also require a person scheduled to be released from jail between the hours of 8 a.m. and 5 p.m. or sundown, whichever is later, to be released during that time. The bill would require the sheriff to offer a person scheduled to be released from jail between the hours of 5 p.m. or sundown, whichever is later, and 8 a.m. the option to voluntarily stay in jail for up to 16 additional hours or until normal business hours, as specified. The bill would require the person, if he or she declines this option, to be provided the opportunity to choose from specified alternatives, such as free transportation to a location of the person's choosing within the county or within a 100-mile radius, whichever is further. The bill would also require a person who is released from jail after being incarcerated for more than 30 days to be provided with at least 3 days' supply of any necessary medication. Because this bill would impose new duties on sheriffs and county jails, it would impose a state-mandated local program. The bill would authorize a violation of the rights described in these provisions to be submitted to the Board of State and Community Corrections, Ombudsman. The bill would require the board to convene a stakeholder group that includes women and girls who have been incarcerated to aid in developing protocols for receiving and responding to reports of violations of these provisions.

The bill would also require the Board of State and Community Corrections to establish the Late-Night Release Prevention Task Force. The bill would require the task force to be composed of relevant stakeholders, including women and children who have been incarcerated, and would require the task force, among other duties, to submit a report on January 1, 2022, to the relevant policy and budget committees of the Legislature about the progress made by the task force in implementing these provisions and make suggestions for any additional legislation necessary to prevent dangerous late-night releases at county jails throughout California.

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.

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 the statutory provisions noted above.

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) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Women of color are more commonly criminalized for
- 4 noncriminal behavior than other demographic groups and are
- 5 treated like perpetrators when they call for help or are suffering a
- 6 crisis.
- 7 (2) The overrepresentation of women of color in our county
- 8 jails is evidence of these injustices and the disregard with which
- 9 they are discharged from county jails only worsens the harm they
- 10 experience as a result.
- 11 (3) Despite legislation passed and signed in 2014 that allowed
- 12 county jails to voluntarily participate in a program that would
- 13 reduce the number of late-night releases throughout California,
- 14 few jails have changed their release policy and, instead, jails
- 15 continue to regularly release jailed persons during late-night hours.
- 16 (4) The lack of free phone services available to people during
- 17 detention and the inability to charge personal cell phones upon
- 18 release exacerbates the danger of late-night releases.
- 19 (5) This practice is especially dangerous for women, including
- 20 transgender women, who become targets for physical abuse, sexual
- 21 abuse, and sex trafficking from predators who are familiar with
- 22 county jail late-night release practices.
- 23 (6) The release of people from a county jail during late-night
- 24 hours is not only dangerous for the person being released but also
- 25 for the public health and safety of the community at large.
- 26 (7) Persons who suffer from mental illness or substance
- 27 addiction are far less likely to be able to access immediate
- 28 treatment services following a late-night release from county jail.
- 29 (8) Intentional or not, these release policies are cruel and fail
- 30 to acknowledge the often significant lived trauma that people,
- 31 especially women, who are involved in the criminal justice system
- 32 have experienced.
- 33 (9) There is no recidivism prevention or public safety purpose
- 34 of county jail late-night release policies that would substantiate
- 35 the need for counties to maintain them. In fact, the lack of access

1 to essential reentry, family reunification, and transportation services
2 means these late-night release policies work contrary to
3 crime-prevention goals.

4 (10) Throughout California, women impacted by these late-night
5 release policies have been thwarted in their efforts to end this
6 practice, indicating that a statewide solution is needed.

7 (b) It is the intent of the Legislature to ensure that people are
8 released with expediency from county jails with conditions that
9 protect their health and maximize the likelihood of their success
10 in preventing rearrest by establishing a statewide release standard
11 for county jails to follow.

12 SEC. 2. Section 4024 of the Penal Code is amended to read:

13 4024. (a) The sheriff may discharge any prisoner from the
14 county jail at such time on the last day such prisoner may be
15 confined as the sheriff shall consider to be in the best interests of
16 the prisoner.

17 (b) (1) Upon completion of a sentence served by a prisoner or
18 the release of a prisoner ordered by the court to be effected the
19 same day, including prisoners who are released on their own
20 recognizance, have their charges dismissed by the court, are
21 acquitted by a jury, are cited and released on a misdemeanor
22 charge, have posted bail, or have the charges against them dropped
23 by the prosecutor, the sheriff may offer a voluntary program to the
24 prisoner that would allow that prisoner to stay in the custody
25 facility for up to 16 additional hours or until normal business hours,
26 whichever is shorter, in order to offer the prisoner the ability to be
27 discharged to a treatment center or during daytime hours. The
28 prisoner may revoke his or her consent and be discharged as soon
29 as possible and practicable.

30 (2) This subdivision does not prevent the early release of
31 prisoners as otherwise allowed by law or allow jails to retain
32 prisoners any longer than otherwise required by law without the
33 prisoner's express written consent.

34 (3) Offering this voluntary program is an act of discretion within
35 the meaning of Section 820.2 of the Government Code.

36 (4) If a prisoner has posted bail and elects to participate in this
37 program, he or she shall notify the bail agent as soon as possible
38 and practicable of his or her decision to participate.

39 (5) A sheriff offering this program shall, whenever possible,
40 allow the prisoner volunteering to participate in the program to

1 make a telephone call to either arrange for transportation, or to
2 notify the bail agent pursuant to paragraph (4), or both.

3 *(c) This section shall become inoperative on June 1, 2020, and*
4 *as of January 1, 2021, is repealed.*

5 SEC. 3. Section 4024.5 is added to the Penal Code, to read:

6 4024.5. (a) This section shall be known as the Getting Home
7 Safe Act.

8 (b) The rights established in this section apply to any person
9 being released from a county jail, including, but not limited to, a
10 person who has completed a sentence served, been ordered by the
11 court to be released, been released on his or her own recognizance,
12 been released because his or her charges have been dismissed by
13 the court, is acquitted by a jury, is cited and released on a
14 misdemeanor charge, has posted bail, has complied with pretrial
15 release conditions, or has had the charges dropped against him or
16 her by the prosecutor.

17 (c) (1) A county sheriff shall make the release standards, release
18 processes, and release schedules of a county jail available to the
19 public and shall post them online to the sheriff's Internet Web site.
20 The sheriff shall also make the release standards, release processes,
21 and release schedules of a county jail available to a person when
22 he or she is booked into a county jail and while he or she is
23 incarcerated in a county jail.

24 (2) The release standards shall include the list of rights
25 enumerated in this section and the timeframe for the expedient
26 release of a person following the determination to release that
27 person by a judge, jury, or appropriate county staff member.

28 (d) (1) A person shall have the right to request that, upon his
29 or her release from a county jail, he or she be assisted in entering
30 a drug or alcohol rehabilitation program. The person shall be
31 allowed to make this request upon, or subsequent to, being booked
32 into a county jail.

33 (2) If the person chooses to enter a drug or alcohol rehabilitation
34 program upon release from jail, the county jail shall provide or
35 arrange transportation directly to a rehabilitation program or
36 hospital free of charge immediately upon release.

37 (e) A person incarcerated in or recently released from a county
38 jail shall have access to up to three free telephone calls from a
39 telephone in the county jail to plan for a safe and successful release

1 and shall also have access to a free cell phone charging station
2 upon release from jail to charge his or her personal cell phone.

3 (f) (1) A sheriff shall offer a person scheduled to be released
4 from jail between the hours of 5 p.m. or sundown, whichever is
5 later, and 8 a.m. the option to voluntarily stay in jail for up to 16
6 additional hours or until normal business hours, whichever is
7 shorter, in order to offer the person the ability to be discharged
8 during daytime hours.

9 (2) A person shall provide his or her written consent before
10 choosing to stay voluntarily in jail as described in paragraph (1).
11 However, a person may revoke his or her written consent at any
12 time and be discharged from jail as soon as possible and
13 practicable.

14 (g) A person scheduled to be released from county jail between
15 the hours of 8 a.m. and 5 p.m. or sundown, whichever is later, shall
16 be released during that time. If the person is scheduled to be
17 released from jail between the hours of 5 p.m. or sundown,
18 whichever is later, and 8 a.m., and he or she has declined the option
19 described in subdivision (f), he or she shall be provided the
20 opportunity to choose from both of the following alternatives:

21 (1) A safe place to wait for a person he or she knows to pick
22 him or her up with adequate and sufficient ability to charge his or
23 her own personal cell phone and access to a free public telephone.

24 (2) Free transportation to a location of the person's choosing
25 within the county or within a 100-mile radius, whichever is further.

26 (h) A person who is released from jail after being incarcerated
27 for more than 30 days shall receive at least three days' supply of
28 any necessary medication.

29 (i) This section does not prevent the early release of a person
30 as otherwise allowed by law or allow a county jail to retain a person
31 any longer than otherwise required or allowed by law without the
32 person's express written consent.

33 (j) (1) A violation of the rights established by this act may be
34 submitted to the Board of State and Community Corrections,
35 Ombudsman.

36 (2) (A) For purposes of developing protocols for receiving and
37 responding to reports of violations of the rights established by this
38 act, the board shall convene a stakeholder group that includes
39 women and girls who have been incarcerated to aid in this effort.

1 (B) For purposes of this paragraph, “woman” means an
2 individual who self-identifies her gender as a woman, without
3 regard to her designated sex at birth.

4 (k) This section shall become operative on June 1, 2020.

5 SEC. 4. Section 4024.6 is added to the Penal Code, to read:

6 4024.6. (a) (1) The Board of State and Community Corrections
7 shall establish the Late-Night Release Prevention Task Force.

8 (2) The task force shall be composed of relevant stakeholders,
9 including women and children who have been incarcerated.

10 (b) The task force shall do both of the following:

11 (1) Prepare any and all materials related to the implementation
12 of the Getting Home Safe Act.

13 (2) Develop recommended requirements for county jails to
14 maintain records that adequately document the implementation of
15 the Getting Home Safe Act, including how these records will be
16 maintained and made available to the public.

17 (c) (1) The task force shall submit a report on January 1, 2022,
18 to the relevant policy and budget committees of the Legislature
19 about the progress made by the task force in implementing this
20 section and make suggestions for any additional legislation
21 necessary to prevent dangerous late-night releases at county jails
22 throughout California.

23 (2) The requirement for submitting a report imposed under
24 paragraph (1) is inoperative on January 1, 2026, pursuant to Section
25 10231.5 of the Government Code.

26 (d) For purposes of this section, “woman” means an individual
27 who self-identifies her gender as a woman, without regard to her
28 designated sex at birth.

29 SEC. 5. If the Commission on State Mandates determines that
30 this act contains costs mandated by the state, reimbursement to
31 local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.

