



To: CLEARS

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Subject: **Legislature and Governor Approve 2021-22 State Budget**

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This week, Governor Newsom signed SB 129, signaling the striking of an overall budget deal by the Administration and the Legislature. The first budget bill, AB 128, was signed on June 28, satisfying the constitutional deadline to approve and sign a budget into law. Without a full, global agreement on all provisions of the spending plan, discussions and negotiations continued. Since then, several budget trailer bills, which enact policy associated with specific budget line items, have been approved by the Legislature and more than a dozen of them have been signed.

The budget now includes approximately \$196.4 billion in General Fund (GF) spending (an increase of \$31.9 billion from the \$164.5 billion proposed in the January budget). The adopted budget stands in stark contrast to the budget of one year ago. Compared to a projected budget deficit of \$54 billion, the state now has a projected surplus of over \$75 billion.

According to the Administration, while the economic outlook and revenue have improved dramatically, the same budget resiliency that helped the state through the pandemic will continue to be critical to protect programs in the future and to prepare the state for emergencies. The forecast does not project large structural deficits; however, risks to the economic forecast remain—coronavirus variants, vaccine hesitancy, higher inflation if disrupted supply chains cannot support increased consumer demand, and a stock market decline that would impact state revenues. These risks, together with the one-time nature of the federal funds and new revenue, constrain the state’s ability to significantly expand ongoing commitments.

It is important to note that funds for Public Safety Realignment have increased since the adoption of the 2020-21 budget and the announcement of the January budget, including subventions to law enforcement agencies. Crucial law enforcement programs like COPS and Rural Sheriffs are funded and there is \$453.2 billion predicted to be available for realignment growth funding for

law enforcement services for the current year (up from \$348 million as estimated by the January budget). There is continued funding for court security needs, addressing the IST population, and reimbursements for jails holding CDCR inmates.

Again, while most budget items have been negotiated and mainly approved by the Legislature, we expect budget discussions on unresolved issues to continue over the summer and through the end of session. And while we don't expect major changes to the items here unless otherwise noted, the state budget process has seemingly morphed into more of an ongoing timeline as opposed to concluding the vast majority of action in advance of the start of the new fiscal year.

## **REALIGNMENT**

### Realignment Base Funding

The budget notes funding for the AB 109 Community Corrections Subaccount of \$1.366 billion for 2020-21 (unchanged from the January budget) and \$1.519 billion for 2021-22 (up from \$1.408 billion at the January budget). Additionally, projected funding in the Law Enforcement Activities Account is \$489.9 million for 2020-21 as well as 2021-22 (this base number is fixed). Finally, projected funding for the Trial Court Security Subaccount is \$567 million in 2020-21 (unchanged from the January budget) and \$587.4 million in 2021-22 (up from \$563.7 million at the January budget). The base amounts for the Community Corrections and Trial Court Security Subaccounts are now projected as higher given better than expected sales tax collections.

### Realignment Growth Funding

The budget anticipates that the growth in the AB 109 Community Corrections Subaccount is \$153.1 million for 2020-21 (up from \$75.9 million at the January budget) and \$98.8 million in 2021-22 (no growth was projected at the January budget). Additionally, projected growth in the Law Enforcement Activities Account is \$249 million for 2020-21 (up from \$247.3 million at the January budget) and \$239.3 million for 2021-22 (up from \$210.7 million at the January budget). Finally, projected growth for the Trial Court Security Subaccount is \$20.4 million for 2020-21 (up from \$10.1 million at the January budget) and \$13.2 million in 2021-22 (no growth was projected at the January budget).

All told, the budget predicts \$453.2 million in growth funding to law enforcement services pursuant to realignment in 2020-21 (up from \$348.4 million at the January budget) and \$371.1 million in 2021-22 (up from \$210.7 million at the January budget). You will note that these figures are projected (subject to change) and dependent upon the actual collection of sales tax and vehicle license fees. For this reason, growth funds are not actually distributed until the fall after the close of the fiscal year. For example, 2020-21 growth will not actually be paid until October or November of 2021.

## **CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**

The budget proposes total funding of \$13.7 billion for the California Department of Corrections and Rehabilitation (CDCR) in 2021-22, including \$3.4 billion for health care services.

### Increased Intake to State Prisons

In late March 2020, the state halted intake of incarcerated persons from county jails to reduce the risk of COVID-19 entering the state prison system. CDCR resumed intake on a limited basis in late August, although public health conditions subsequently necessitated halting intake again in late November. In January 2021, CDCR resumed intake with continued precautions including requiring testing and symptom screening prior to intake, and instituting a mandatory 14-day quarantine period in its reception centers. Since then, intake has remained open, and has increased over time, as public health conditions have allowed. As of this writing, the intake backlog has been eliminated in 54 of 58 counties.

The suspension of intake has resulted in greater numbers of incarcerated persons being held in county jails. In circumstances where CDCR cannot accept the intake of an individual from a county jail, the state is required to reimburse counties for holding those individuals. As of March 15, 2021, the state has provided approximately \$121.1 million to county sheriffs for this purpose. This reflects payments for individuals held in county jails from March 2020 through December 2020, and reimbursements will continue until such time that all incarcerated individuals are transferred to state prison.

### Prison Capacity and Closures

CDCR terminated its final remaining contract to house incarcerated persons out of state in June 2019. In addition, CDCR terminated six of seven in-state contracts by October 2020, and the Governor's Budget reflected closing the final in-state contract correctional facility by May 2021. Consistent with the 2020 Budget Act, CDCR plans to close Deuel Vocational Institution in Tracy by September 2021, achieving savings of \$119 million in 2021-22, and \$150.3 million annually beginning in 2022-23. CDCR also plans to close the California Correctional Center in Susanville, by June 30, 2022. The closure of this facility is estimated to save the state \$122 million in 2022-23 and ongoing.

### Division of Juvenile Justice Realignment

Consistent with SB 823, the Division of Juvenile Justice (DJJ) stopped the intake of wards on June 30, 2021, with limited exceptions. To facilitate the realignment of youth offenders from the state to counties, the Board of State and Community Corrections is in the process of distributing \$9.6 million in one-time funds in 2020-21 for the Regional Youth Programs and Facilities Grant Program as authorized by SB 823.

In addition, SB 823 established the Juvenile Justice Realignment Block Grant Program, which will result in annual appropriations to be allocated to counties to serve realigned youth, including \$45.7 million in 2021-22 growing to \$211.9 million in 2024-25 and annually thereafter. Recent pending legislation, Senate Bill 92, makes changes to support SB 823 implementation and enable

counties to provide appropriate rehabilitative and supervision services to realigned youth starting July 1, 2021. This includes establishing a framework for county secure youth treatment facilities, consistent with intent language included in SB 823. SB 92 also specifies a closure date for DJJ of June 30, 2023, and requires DJJ to develop a plan by January 1, 2022 for the transfer of remaining DJJ youth.

The budget changes statute to create opportunities for state and local partnerships to maintain firefighting operations at the Pine Grove Youth Conservation Camp in Amador County. This will enable juvenile courts to assign local youth to Pine Grove without committing them to DJJ and authorize counties to contract with the state to place youth offenders at Pine Grove. This action is consistent with the intent expressed in SB 823 to continue operations at Pine Grove given the camp provides critical reentry and job training to justice-involved youth.

The budget includes \$7.6 million in 2021-22 and \$7.2 million ongoing for 33 positions to stand up the Office of Youth and Community Restoration and perform the core functions laid out in SB 823, including: (1) review of county's juvenile justice plans, (2) reporting on youth outcomes and identifying best practices, (3) providing technical assistance to counties, and (4) performing the ombudsperson duties.

#### Inmate Rehabilitation and Reentry

The budget includes \$546.9 million for CDCR rehabilitative programs—nearly double the funding level in 2012-13.

The budget includes \$13.7 million in 2021-22, and \$3 million ongoing, to expand programming and undertake facility improvements at Valley State Prison (VSP), guided by the Norway model, with the goal of achieving similar success in rehabilitating incarcerated individuals and preparing them for life outside of the institution. VSP will serve as a pilot for re-envisioning and transforming the state's correctional system. Specifically, these resources will enable CDCR to install two new modular buildings to accommodate additional educational and rehabilitative activities for incarcerated individuals; create two new baccalaureate degree programs—one general education program and one focused on Science, Technology, Engineering, and Mathematics (STEM); add new vocational and career technical training opportunities, including multimedia (video, music, and podcasts) production and construction licensing and certification programs; and provide additional laptops, complementary to the Governor's Budget proposal, for the incarcerated population's use to support digital literacy development and access to educational offerings.

#### Increased Inmate Visitation

In April 2021, CDCR resumed in-person visiting, which will continue in conjunction with video visiting. To support increased in-person visiting, the budget includes \$20.3 million ongoing to add a third day of in-person visitation on Fridays at all institutions (visiting is currently limited to Saturdays and Sundays). In addition, this funding will provide visitors with free transportation on select days throughout the year to all prisons via chartered busses.

## Statewide Implementation of Fixed Video Surveillance Systems

Audio-visual surveillance is integral to CDCR's ability to monitor activity within its institutions and maintain a safe environment for the incarcerated population and staff. Effective surveillance systems have the capacity to facilitate contraband interdiction and support inquiries and investigations into allegations of staff and incarcerated individual misconduct. These systems generally serve as a deterrent for improper or illicit activities, thereby improving safety and enhancing operations within the institutions. CDCR initiated the process of replacing its older analog camera systems with modern fixed security camera systems at High Desert State Prison and Central California Women's Facility, and portions of San Quentin State Prison and California State Prison, Sacramento. Additionally, the budget provides \$37.6 million and seven positions in 2021-22, and \$1.9 million ongoing to install cameras at Salinas Valley State Prison, Mule Creek State Prison, California State Prison Sacramento, and California Correctional Institution in Tehachapi.

## Cellular Interdiction

CDCR currently uses technology called the Managed Access System to block unauthorized cellular usage within its prisons. While the Department works to prevent the introduction of contraband cell phones onto prison grounds, cell phones are still located and confiscated. This system disables contraband cell phones by intercepting calls and stopping them from being completed. The Budget includes \$1.8 million ongoing to maintain the use of the current Managed Access System which would otherwise expire May 2021, with the Inmate/Ward Telephone System contract. Although the continuation of the Managed Access System results in increased costs to the state, it also results in reduced calling costs to inmates and their families when using the Inmate/Ward Telephone System.

## Parole Hearings

The budget includes \$3.1 million ongoing to increase the number of Board of Parole Hearings commissioners from 17 to 21 to alleviate a significant backlog of hearings and maintain a consistent level of service as the number of required hearings continues to rise. The proposal also includes statutory changes to permit the Board of Parole Hearings to conduct video conference hearings currently authorized through an Emergency Executive Order, which allows for more hearings by reducing travel time for commissioners, as well as associated costs. Remote hearings have also allowed easier access for participation by victims and next of kin. For example, in February 2020, 127 victims or next of kin participated in the parole hearing process. In February 2021, 343 victims or next of kin participated.

## Victim Support

Corresponding with the anticipated increase in the number of parole hearings, the budget also includes \$1.3 million ongoing to deliver services for victims during the parole hearing process. The staff and resources will also enable CDCR to expand existing initiatives such as the Victim Offender Dialogue program. The parole hearing process is often confusing, stressful, and traumatic for victims. Victims who attend parole hearings are often confronted with details of the

most painful and traumatic experience of their lives and many face significant fear for their personal safety if the incarcerated person is released. Explaining the parole process to victims in a sensitive and informative manner in advance of a parole hearing increases victims' understanding of the process. It can also increase their overall satisfaction and trust in the criminal justice system.

#### State Savings from Proposition 47

As part of Proposition 47, the Department of Finance is required to calculate the state savings created by the implementation of the measure. That money is then distributed pursuant to a formula contained in Prop 47 – 25% to the Department of Education to administer a grant program to public agencies to reduce truancy and support students who are at risk of dropping out or are crime victims; 10% to the Victim Compensation and Government Claims Board to make grants to trauma recovery centers; and 65% to the Board of State and Community Corrections (BSCC) to administer a grant program to public agencies aimed at supporting mental health treatment, substance abuse treatment, and diversion programs for people in the criminal justice system. The Department of Finance has estimated that Prop 47 will result in net state savings of \$116.2 million for 2021-22 (up from \$114.8 million at the January budget). The estimate assumes savings from a reduction in the state prison population, fewer felony filings, and releases from DSH, which are offset by increased costs from a higher parole population and workload stemming from resentencing proceedings.

### **HEALTH AND HUMAN SERVICES**

#### Department of State Hospitals

The Budget includes \$2.5 billion in 2021-22 to support the Department of State Hospitals (DSH), which administers the state mental hospital system, forensic mental health commitments (sexually violent predators and mentally disordered offenders), and the treatment of other committed patients. The patient count at DSH is projected to grow to 7,089 in the budget year.

#### Incompetent to Stand Trial Population

DSH continues to experience a growing number of incompetent to stand trial (IST) commitments who are referred from trial courts and are awaiting admission to the state hospital system, which has been further exacerbated by the COVID-19 Pandemic. The number of ISTs pending placement into the state hospital system was approximately 1,561 individuals in May 2021.

The budget includes trailer bill language and resources to address the IST waitlist including \$256 million for DSH to contract for subacute bed capacity in facilities such as institutions of mental disease, mental health rehabilitation centers, and skilled nursing facilities; authorization for the Department of Finance to increase this amount by up to \$75 million to implement the resolutions of the newly-established Incompetent to Stand Trial Solutions Workgroup; and authorization for DSH to limit county civil commitments to state hospitals if significant progress to reduce the IST waiting list is not realized (in place of the previous proposal to immediately restrict state hospital placement of Lanterman-Petris-Short conservatorships).

In addition, the budget includes following items to address the number of ISTs pending placement by increasing local capacity to provide treatment, housing, and other necessary supports:

- Community-Based Restoration Program Expansion - The budget includes \$28.3 million to provide competency restoration service for IST patients in community mental health treatment settings. Beginning in 2024-25 ongoing costs increase to \$49.8 million.
- Jail-Based Competency Treatment Program Existing/New Program Updates - The budget includes \$13.3 million to contract with counties to provide competency restoration services for IST patients residing in county jail facilities. Beginning in 2022-23 ongoing costs increase to \$22.5 million.
- Reevaluation Services for Felony ISTs - The budget includes \$12.7 million to partner with local county jails to re-evaluate individuals deemed IST on a felony charge waiting in jail 60 days or more pending placement to a DSH treatment program.
- Mental Health Diversion - Approves \$47.6 million one-time to expand the Mental Health Diversion Program to 33 additional counties, and adopts placeholder trailer bill to require counties expanding a current state-funded Diversion program to exclusively divert IST patient defendants.

## **JUDICIAL BRANCH**

The budget includes \$4.5 billion for the Judicial Branch in 2021-22, of which \$1.2 billion General Fund is provided to support trial court operations.

### Court Security Funding

The budget includes \$7 million to fund supplemental court security needs created by the opening of newly constructed courthouses. This is ongoing funding that addresses court security needs created by capital court projects. Additionally, the budget provides that the base rate of \$100,000 for each additional staff that the Department of Finance determines is necessary to meet the increased trial court security workload shall be adjusted annually commensurate with the overall growth in the Trial Court Security Growth Special Account since 2014–15.

### Statewide Initiative to Reduce Pretrial Detention

The budget includes \$140 million in 2021-22 and \$70 million ongoing to expand a pretrial pilot program funded with one-time resources in the 2019 Budget Act. Specifically, this funding will provide all 58 courts and county supervision agencies with the resources necessary to support judicial officers in making pretrial release decisions that impose the least restrictive conditions while maintaining public safety and assisting individuals in returning to court, and implementing appropriate monitoring practices and the provision of services for released individuals. The Judicial Council will distribute the funds and provide judicial education and technical assistance to the courts on practices and programs related to pretrial decision-making. The Judicial Council will also evaluate the pretrial programs and practices and provide regular reports to the Legislature.

### Early Disposition Readiness Conference Program

The budget includes \$30 million one-time to support the Early Disposition Readiness Conference Program. In the fall, the Chief Justice initiated this program to expedite adjudications by making temporary assigned judges available to complete readiness conferences to resolve low-level misdemeanors or felony cases before going to trial, providing victims and offenders a more timely resolution. While the Chief Justice provides temporary judges to courts that opt-in to this voluntary program, not all courts have resources available to provide staff to support these judges. As such, many courts have been reluctant to opt-in to the program. The proposed funding would remove this financial impediment and thereby support the early resolution of certain criminal cases.

### Fines and Fees

The budget includes trailer bill language to determine the allocation schedule for the \$65 million backfill provided for five years pursuant to Chapter 92, Statutes of 2020 (AB 1869), which repealed various criminal justice system fees. The budget also scores \$151 million each in 2021-22 and 2022-23, \$130 million in 2023-24, and \$120 million in 2024-25 and ongoing to backfill the revenue associated with the elimination of additional fees.

## **DEPARTMENT OF JUSTICE**

### Police Use of Force Investigations

Last year's AB 1506 requires a state prosecutor to investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian and makes the Attorney General the state prosecutor unless otherwise specified or named. The budget includes \$15.3 million in 2021-22, increasing to \$15.6 million ongoing, to establish four teams, one in each of the northern and central regions, and two in the southern regions of California, to conduct these investigations across the state.

### Forensic Services

The budget provides one year of backfill of \$16 million in 2021-22 for the DNA Identification Fund and adopts supplemental reporting language directing DOJ to present various options to address the decline in revenue for the DNA Identification Fund, including fee for service options.

The January budget included funding for the consolidation of forensic lab campuses from Richmond to Sacramento. The initial budget bill provided funding for consolidating only Sacramento campuses and excluding the Richmond DNA lab. The approved budget strikes the funding for any lab consolidation.

### Firearms

The budget provides \$10.3 million to the Gun Violence Reduction Grant Program to fund local law enforcement agencies to reduce the number of individuals who are in illegal possession of firearms identified by the Armed Prohibited Persons Database.

## **OTHER ITEMS**

### County Jail Relinquishments

The Board of State and Community Corrections administers five financing programs for adult jail facilities in counties statewide. Since these programs commenced, several county recipients have relinquished their awards and some counties realized minor project savings that remain unspent. Approximately \$229 million in lease revenue bond authority is relinquished by the budget.

### BSCC Facility Inspections

In a spring Finance letter, the Administration through the Board of State and Community Corrections (BSCC) requested \$3.1 million and 14 positions ongoing to strengthen the state's oversight of county jails, mainly by increasing the frequency of adult jail inspections from biennial to annual. The Legislature's budget rejected the 14 positions and \$2.9 million of the associated funding but includes the remaining \$150,000 in ongoing funding to support electronic data entry and adopted the Administration proposal to authorize unannounced inspections. The final budget once again includes the funding and positions for the enhanced inspection process.

### California Violence Intervention and Prevention (CalVIP) Grant Program

The January budget included baseline funding of \$9 million ongoing for the CalVIP program, which provides competitive grants to cities and community-based organizations to support services such as community education, diversion programs, outreach to at-risk transitional age youth, and violence reduction models. The budget includes an additional \$200 million one-time across the next three fiscal years for the Board of State and Community Corrections to expand this program.

### Post-Release Community Supervision

The budget includes \$23.6 million one-time in 2021-22 (up from \$19.5 million at the January budget), for county probation departments to supervise the temporary increase in the average daily population of offenders on Post-Release Community Supervision because of the implementation of Proposition 57.

### Community Corrections Performance Incentive Act (SB 678)

The budget adds \$10.3 million in one-time funding for the California Community Corrections Performance Incentive Act of 2009 (SB 678) for 2021-22 and adopts statutory changes for a new allocation schedule that will sunset in one year.

### Victims of Crime Act Supplemental Funding

The budget includes \$100 million one-time for CalOES to supplement federal funding supporting a variety of services for domestic violence victims. Domestic violence and sexual abuse have increased during the pandemic. Police data across US cities indicated a 10-27% increase in domestic violence during the pandemic. At the same time, the amount of funding that California is receiving in Victims of Crime Act federal funding—which supports a variety of

programs including rape crisis programs, domestic violence housing, victim witness programs, and child advocacy centers—has declined in recent years. This one-time augmentation will allow existing programs to continue, while building capacity to handle the increased need.

### Cannabis

To help local governments and aid licensees in successfully and swiftly moving from provisional licensure into annual licenses, and to do so in a way that supports the environmental compliance requirements, the budget includes \$100 million one-time to establish a local jurisdiction assistance grant program for cannabis. The grant program is intended to aid local governments in processing substantial workloads associated with transitioning businesses to a regulated market; incentivize local governments to modify their permitting methods to better align with the state's effort to remove barriers to licensure; support provisional license holders by allowing local governments to pass through funding to applicants for purposes of assessing and mitigating environmental impacts; provide more financial assistance to licensed cultivators and localities that license them, as both often experience enhanced environmental compliance and resource challenges when transitioning operations to annual licensure; and provide enhanced support to eligible jurisdictions that are implementing social equity programs.

Proposition 64 specified the allocation of resources in the Cannabis Tax Fund, which are continuously appropriated. Pursuant to Proposition 64, expenditures are prioritized for regulatory and administrative workload necessary to implement, administer, and enforce the Cannabis Act, followed by research and activities related to the legalization of cannabis and the past effects of its criminalization. Once these priorities have been met, the remaining funds are allocated to: (1) youth education, prevention, early intervention, and treatment; (2) environmental protection; and (3) public safety-related activities. The Budget estimates \$629.1 million will be available for these purposes in 2021-22, and the structure of these allocations is unchanged from 2020-21:

- Education, prevention, and treatment of youth substance use disorders and school retention: 60 percent (\$377.5 million).
- Clean-up, remediation, and enforcement of environmental impacts created by illegal cannabis cultivation: 20 percent (\$125.8 million).
- Public safety-related activities: 20 percent (\$125.8 million).