

Evidence Based Practice/ Senate Bill 678 Briefing



ADMINISTRATIVE OFFICE
OF THE COURTS

BAY AREA/NORTHERN COASTAL
REGIONAL OFFICE

November 29, 2010

San Diego Rooms, Lower Level
Milton Marks Conference Center
Hiram Johnson State Office Building
455 Golden Gate Avenue
San Francisco, CA

Agenda

Faculty

Judge J. Richard Couzens (Ret.), Superior Court of Placer County
Judge Roger K. Warren (Ret.), AOC Scholar-in-Residence, Superior Court of Sacramento County
Chief Isabelle Voit, President, Chief Probation Officers of California; Chief Probation Officer, Solano County

MONDAY, NOVEMBER 29

- | | |
|-----------------------|--|
| 10:00–10:15 a.m. | Welcome and Introductions
<i>Judge Warren and Chief Voit</i> |
| 10:15–10:25 a.m. | Purpose of Meeting
<i>Judge Couzens</i> |
| 10:25–10:45 a.m. | Overview of SB 678
<i>Chief Voit</i> |
| 10:45–11:15 a.m. | Principles of Evidence Based Practice
<i>Judge Warren</i> |
| 11:15–11:30 a.m. | Break |
| 11:30 a.m.–12:45 p.m. | Principles of Evidence Based Practice (continued) |
| 12:45–1:15 p.m. | Lunch |
| 1:15–1:35 p.m. | Evidence Based Probation Supervision Practical Application
<i>Chief Voit</i> |
| 1:35–2:35 p.m. | Principles of Evidence Based Practice Q & A
<i>Judge Couzens, Judge Warren, and Chief Voit</i> |
| 2:35–3:00 p.m. | Team Break-Outs
Teams will address the following questions: <ul style="list-style-type: none">• What do the courts need from county probation departments to help further the intent and success of SB 678?• What do county probation departments need from the courts to help further the intent and success of SB 678?• How can the AOC and/or CPOC be of assistance at the county level? |
| 3:00–3:15 | Break |
| 3:15–4:00 p.m. | Team Reports and Wrap-Up |
| 4:00 p.m. | Adjourn |

California Community Corrections
Performance Incentive Act Overview

SB 678



SB 678 Briefing

San Francisco Regional
AOC Office

November 29, 2010

Senate Bill 678

- Signed by the Governor on October 11, 2009
- Sponsored by Chief Probation Officers of California
- Broad political support
- No organized opposition
- Passed both houses without a single No vote

Senate Bill 678

- Goal is to reduce recidivism of felony probationers by improving probation services using evidence based practices
- Accomplishing this goal will produce savings at the state level, reduce prison overcrowding, and enhance public safety

Senate Bill 678

- Recognizes the historic underfunding of adult probation and the connection between this lack of funding and poor outcomes for probationers

- Establishes a mechanism to provide sustainable funding for adult probation

Senate Bill 678

- It is **not** a subsidy with direct payment for each offender not send to prison
- It **is** an incentive to use evidence based practices that requires performance measurement
- Funding is based on improved probation outcomes as measured by a reduction in probation failures committed to prison

Senate Bill 678

Funding

- Program was jumpstarted with \$45 million of Federal JAG funds provided to county probation departments for EBP

- Cal-EMA has oversight of this program (2009 Evidence Based Probation Supervision Program)

Senate Bill 678
Funding

- SB 678 funding formula is complicated with details still being worked out
- A baseline failure rate is being calculated for each county (baseline years are 2006-2008)
- Each year the county will be measured against this baseline to determine if the county qualifies for funding

Senate Bill 678
Funding

- Two ways of receiving funding—incentive payments and high performance grants
- AOC administers these grants
- Amount appropriated for distribution to counties is based on costs avoided by CDCR because of a reduction in the percentage of probationers sent to prison for a probation failure
- Money should begin to flow in July 2011

Senate Bill 678
Performance Measurement

- Each county must identify and track specific outcome-based measures and report annually to AOC and CDCR
- AOC in consultation with CPOC determines minimum outcome-based measures

Senate Bill 678
Performance Measurement

- There are four measures specified:
 - The % of persons on felony probation who are being supervised in accordance with EBP
 - The % of state moneys expended for programs that are evidence-based, and a descriptive list of all programs that are evidence-based
 - Specification of supervision policies, procedures, programs, and practices that were eliminated
 - The % of persons on felony probation who successfully complete the period of probation

Senate Bill 678
Performance Measurement

- AOC is required to provide a quarterly statistical report to the DOF
- AOC report will come from reports already being submitted by local courts so no new reports!

Senate Bill 678
Community Corrections Partnership

- Establishes a Community Corrections Partnership in each county
- Chaired by Chief Probation Officer with specific stakeholder members
- Membership includes Presiding Judge or his/her designee

Senate Bill 678

Community Corrections Partnership

- Similar membership to Juvenile Justice Coordinating Councils that have been operating since early 2000's in connection with the Juvenile Justice Crime Prevention Act of 2000

- Is an advisory body

Senate Bill 678

Judicial Responsibility

- Requires the Judicial Council to consider appropriate modifications to the Criminal Rules of Court, and other judicial branch policies and programs affecting felony probation services, that would support implementation of the Act's "evidence-based probation supervision practices"

Senate Bill 678

Collaboration

- Builds in collaboration at state and local levels

- Funding and performance measurement include AOC, CPOC, CDCR, DOF

- Local level includes a diverse stakeholder group

Senate Bill 678
Collaboration

- Court-Probation connection is one of the most significant partnerships at the state and local levels
- AOC and CPOC are working closely together on many aspects of implementation including establishing the California Community Corrections Coordinating Committee which mirrors the local CCP at the state level

Senate Bill 678
Collaboration

- Presiding Judges/Supervising Criminal Judges and Chief Probation Officers need to work closely together at the local level to ensure success
- Today's joint briefing is intended to provide an opportunity to learn and plan together

Principles of Evidence-Based Practice

**Judge Roger K. Warren (Ret.)
Scholar-in-Residence
Administrative Office of the Courts**

**SB 678 Briefing
Bar Area Northern Coastal
Regional AOC Office
November 29, 2010**

State Chief Justices

Top concerns of state trial judges hearing felony cases:

1. **High rates of recidivism**
2. **Ineffectiveness of traditional probation supervision in reducing recidivism**
3. **Absence of effective community corrections programs**
4. **Restrictions on judicial discretion**

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“Putting more and more offenders on probation just perpetuates the problem. The same people are picked up again and again until they end up in the state penitentiary and take up space that should be used for violent offenders.”

**Judge Herbert Klein
November 1988**

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“What is done [today] in corrections would be grounds for malpractice in medicine.”

(2002) Latessa, Cullen, and Gendreau, “Beyond Correctional Quackery...”

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**State Chief Justices:
Top Two Reform Objectives**

- Reduce recidivism through expanded use of evidence-based practices, programs that work, and offender risk and needs assessment tools
- Promote the development, funding, and utilization of community-based programs for appropriate offenders

**2008 California Summit
Recommendations**

- I. Include recidivism reduction as a primary purpose of probation & sentencing
- II. Implement EBP in sentencing of offenders placed on probation
- III. Strengthen adult probation services
- IV. Establish new system of community corrections in California

Evidence-Based Practice

- EBP: probation supervision practices that are “demonstrated by scientific research to reduce recidivism among individuals under supervision” Penal Code §1229 (d)
- EBS: sentencing practices based on principles of EBP

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Purposes of Sentencing

1. “Just Deserts:” penalty or punishment proportionate to the gravity of the offense & culpability of the offender
2. Public Safety
 - Rehabilitation
 - Specific Deterrence
 - Incapacitation/Control
 - General Deterrence
3. Restitution/Restoration

Risk Reduction & Management

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Principles of EBP

- Risk Principle (Who)
- Needs Principle (What)
- Treatment Principle (What works)

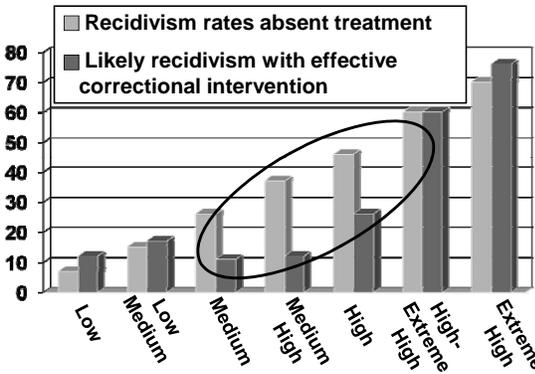
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Risk Principle (Who)

The level of supervision or services should be matched to the risk level of the offender: i.e., higher risk offenders should receive more intensive supervision and services.

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Potential Impact on Recidivism



Travis Co., Texas: Impact of Supervision by Risk

Risk Level	% Rearrest		% Change in Rate
	Pre-TCIS 1/06-6/06 N = 1287	Post-TCIS 7/07-10/07 N = 614	
Low	26%	6%	-77%
Medium	26%	13%	-50%
High	34%	31%	-9%
Overall	29%	24%	-17%

**Needs Principle
(What)**

The targets for interventions should be those offender characteristics that have the most effect on the likelihood of re-offending.

Risk of Heart Attack

1. Elevated LDL and low HDL levels
2. Smoking
3. Diabetes
4. Hypertension
5. Abdominal obesity
6. Psychosocial (i.e., stress or depression)
7. Failure to eat fruits and vegetables daily
8. Failure to exercise

**Dynamic Risk Factors
(Criminogenic Needs)**

- Anti-social attitudes
- Anti-social friends and peers
- Anti-social personality pattern
- Family and/or marital factors
- Substance abuse
- Education
- Employment
- Anti-social leisure activities

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Anti-Social Personality Pattern

- **Lack of self-control**
- **Risk taking**
- **Impulsivity**
- **Poor problem solving**
- **Lack of empathy**
- **Narcissism**
- **Anger and hostility**

LOW RISK	MEDIUM RISK	HIGH RISK
Lowest reporting requirements	Increased reporting requirements	Highest reporting requirements
No need for intensive discretionary programs	Discretionary programs depending on determination of need	Use of surveillance programs, & most intensive treatments
Caseload 500-1,000	Caseload 65-75	Caseload 10-15 Extremely High Risk; 65-75 High Risk

Risk/Needs Assessment

- **The engine that drives EBP and EBS**
- **Validation & reliability**
- **General v. specialized tools**
- **Proprietary v. non-proprietary**
- **Intended to inform not replace professional judgment**
- **Re-assessment**

Use of Risk/Needs Assessment Information at Sentencing

- RAPP Project
- Identify appropriate level of supervision and services
- Identify dynamic risk factors to target with conditions of probation

Probation Conditions

- Target dynamic risk factors
 - Treatment conditions, e.g. successfully complete treatment program
 - Monitoring/control conditions, e.g., drug testing, intensive supervision
- Set framework for probation case plan
- Focus on most critical risk factors
- Provide flexibility to the PO

Treatment Principle

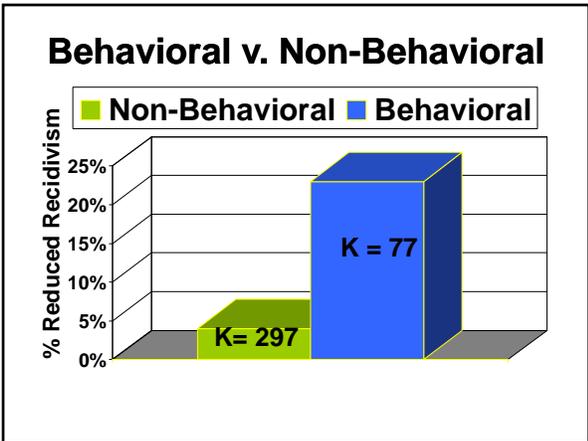
The most effective services in reducing recidivism among higher risk offenders are cognitive behavioral interventions based on social learning principles.

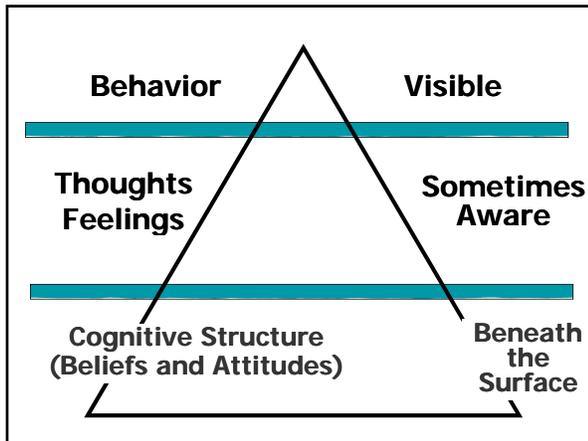
**Social Learning:
Behaviors Have Consequences**

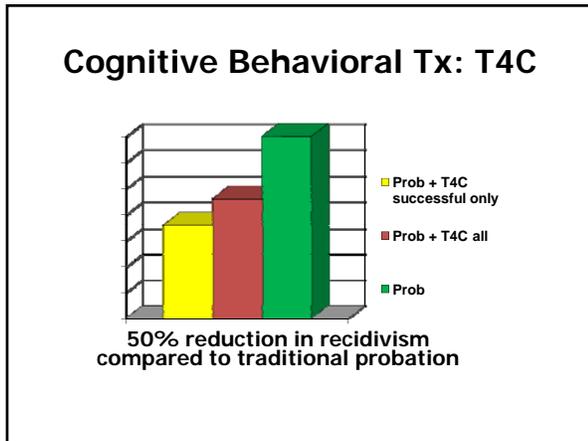
<p><u>Positive</u></p> <ul style="list-style-type: none">• Rewards• Reinforcement• Incentives	<p><u>Negative</u></p> <ul style="list-style-type: none">• Swift, certain, and proportionate (fair) sanctions• Severe sanctions not necessary
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Social Learning Also Involves....

- Role models
- Demonstration
- Role play
- Feedback
- Skill practice







- ### What Doesn't Work to Reduce Recidivism: Services
- Shaming programs
 - Drug education programs
 - Drug prevention classes focused on fear or emotional appeal
 - Non-action oriented group counseling

What Doesn't Work to Reduce Recidivism: Services

- **Bibliotherapy**
- **Freudian approaches**
- **Vague, unstructured rehabilitation programs**
- **Self-esteem programs**
- **Non skill-based education programs**

What Doesn't Work to Reduce Recidivism: Traditional Sanctions

- **Punishment, sanctions, or incarceration**
- **Specific deterrence, or fear-based programs, e.g., Scared Straight**
- **Physical challenge programs**
- **Military models of discipline and physical fitness - Boot Camps**
- **Intensive supervision, without treatment**

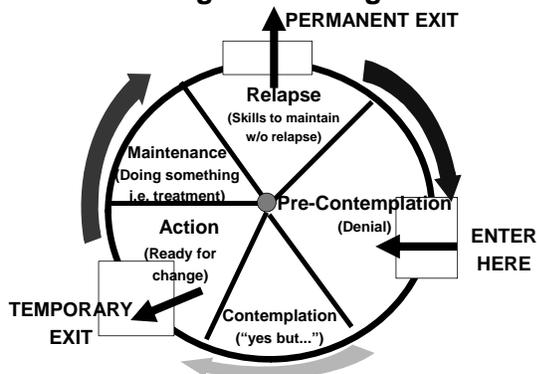
Enhancing Offender Motivation

- **Coerced Treatment**
- **Extrinsic  Intrinsic Motivation**
- **Relationship & Engagement**
- **The Offender Is In Charge**
- **Procedural Fairness**
- **Motivational Interviewing**

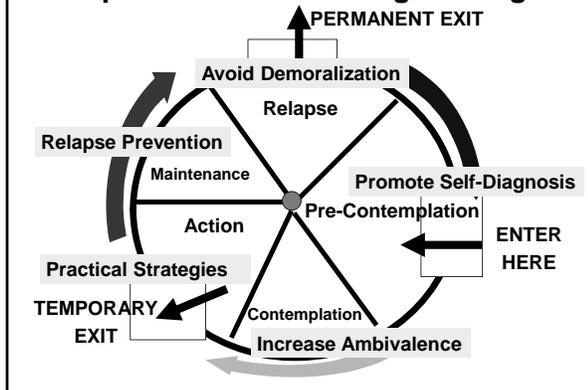
Motivational Interviewing

- Use open-ended questions
- Listen reflectively
- Develop discrepancy/dissonance
- Support self-efficacy
- Roll with resistance; deflection
- Avoid argument, lecture, shaming, threats, or sympathizing

Stages of Change



Responses that Encourage Change



**Principles of an Evidence-Based
Probation Violation Policy**

- One size does not fit all violations
 - Severity of violation
 - Extent of prior compliance
 - Re-assessment of risk
- Swift, certain, and proportionate sanctions
- Graduated continuum of both sanctions and services
- Incentives and positive reinforcement to gain compliance & avoid violations
- Administrative sanctions policy that allows for flexibility by probation, e.g. Penal Code § 1203.2 (b)

**Principles of Evidence-Based
Practice**

**Judge Roger K. Warren (Ret.)
Scholar-in-Residence
Administrative Office of the Courts**

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Senate Bill No. 678

CHAPTER 608

An act to add and repeal Chapter 3 (commencing with Section 1228) of Title 8 of Part 2 of the Penal Code, relating to probation.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 678, Leno. Criminal recidivism.

Existing law authorizes the Department of Corrections and Rehabilitation to oversee programs for the purposes of reducing parolee recidivism.

This bill would authorize each county to establish a Community Corrections Performance Incentives Fund (CCPIF) and would authorize the state to annually allocate money into a State Corrections Performance Incentives Fund to be used for specified purposes relating to improving local probation supervision practices and capacities, as specified. This bill would require the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, to calculate the amount of money to be appropriated from the state fund into a CCPIF. This bill would specify that the calculation would be based on costs avoided by the Department of Corrections and Rehabilitation because of a reduction in the percentage of adult probationers sent to prison for a probation failure, as specified. This bill would also require each county using CCPIF funds to identify and track specific outcome-based measures, as specified, and report to the Administrative Office of the Courts on the effectiveness of the programs paid for by the CCPIF.

This bill would require the community corrections programs to be developed and implemented by the chief probation officer, as advised by a Community Corrections Partnership. This bill would require specified local officials to serve as part of that Community Corrections Partnership. Because this bill would increase the duties for certain local officials, it would impose a state-mandated local program.

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 these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the California Community Corrections Performance Incentives Act of 2009.

SEC. 2. Chapter 3 (commencing with Section 1228) is added to Title 8 of Part 2 of the Penal Code, to read:

CHAPTER 3. CALIFORNIA COMMUNITY CORRECTIONS PERFORMANCE
INCENTIVES

1228. The Legislature finds and declares all of the following:

(a) In 2007, nearly 270,000 felony offenders were subject to probation supervision in California's communities.

(b) In 2007, out of 46,987 new admissions to state prison, nearly 20,000 were felony offenders who were committed to state prison after failing probation supervision.

(c) Probation is a judicially imposed suspension of sentence that attempts to supervise, treat, and rehabilitate offenders while they remain in the community under the supervision of the probation department. Probation is a linchpin of the criminal justice system, closely aligned with the courts, and plays a central role in promoting public safety in California's communities.

(d) Providing sustainable funding for improved, evidence-based probation supervision practices and capacities will improve public safety outcomes among adult felons who are on probation. Improving felony probation performance, measured by a reduction in felony probationers who are sent to prison because they were revoked on probation or convicted of another crime while on probation, will reduce the number of new admissions to state prison, saving taxpayer dollars and allowing a portion of those state savings to be redirected to probation for investing in community corrections programs.

1229. As used in this chapter, the following definitions apply:

(a) "Community corrections" means the placement of persons convicted of a felony offense under probation supervision, with conditions imposed by a court for a specified period.

(b) "Chief probation officer" means the chief probation officer for the county or city and county in which an adult offender is subject to probation for the conviction of a felony offense.

(c) "Community corrections program" means a program established pursuant to this act consisting of a system of felony probation supervision services dedicated to all of the following goals:

(1) Enhancing public safety through the management and reduction of offender risk while under felony probation supervision and upon reentry from jail into the community.

(2) Providing a range of probation supervision tools, sanctions, and services applied to felony probationers based on a risk/needs assessment

for the purpose of reducing criminal conduct and promoting behavioral change that results in reducing recidivism and promoting the successful reintegration of offenders into the community.

(3) Maximizing offender restitution, reconciliation, and restorative services to victims of crime.

(4) Holding offenders accountable for their criminal behaviors and for successful compliance with applicable court orders and conditions of supervision.

(5) Improving public safety outcomes for persons placed on probation for a felony offense, as measured by their successful completion of probation and commensurate reduction in the rate of felony probationers sent to prison as a result of a probation revocation or conviction of a new crime.

(d) “Evidence-based practices” refers to supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or postrelease supervision.

1230. (a) Each county is hereby authorized to establish in each county treasury a Community Corrections Performance Incentives Fund (CCPIF), to receive all amounts allocated to that county for purposes of implementing this chapter.

(b) In any fiscal year for which a county receives moneys to be expended for the implementation of this chapter, the moneys, including any interest, shall be made available to the chief probation officer (CPO) of that county, within 30 days of the deposit of those moneys into the fund, for the implementation of the community corrections program authorized by this chapter.

(1) The community corrections program shall be developed and implemented by probation and advised by a local Community Corrections Partnership.

(2) The local Community Corrections Partnership shall be chaired by the chief probation officer and comprised of the following membership:

(A) The presiding judge of the superior court, or his or her designee.

(B) A county supervisor or the chief administrative officer for the county.

(C) The district attorney.

(D) The public defender.

(E) The sheriff.

(F) A chief of police.

(G) The head of the county department of social services.

(H) The head of the county department of mental health.

(I) The head of the county department of employment.

(J) The head of the county alcohol and substance abuse programs.

(K) The head of the county office of education.

(L) A representative from a community-based organization with experience in successfully providing rehabilitative services to persons who have been convicted of a criminal offense.

(M) An individual who represents the interests of victims.

(3) Funds allocated to probation pursuant to this act shall be used to provide supervision and rehabilitative services for adult felony offenders subject to probation, and shall be spent on evidence-based community corrections practices and programs, as defined in subdivision (c) of Section 1229, which may include, but are not limited to, the following:

(A) Implementing and expanding evidence-based risk and needs assessments.

(B) Implementing and expanding intermediate sanctions that include, but are not limited to, electronic monitoring, mandatory community service, home detention, day reporting, restorative justice programs, work furlough programs, and incarceration in county jail for up to 90 days.

(C) Providing more intensive probation supervision.

(D) Expanding the availability of evidence-based rehabilitation programs including, but not limited to, drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs, and job training and employment services.

(E) Evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.

(4) The chief probation officer shall have discretion to spend funds on any of the above practices and programs consistent with this act but, at a minimum, shall devote at least 5 percent of all funding received to evaluate the effectiveness of those programs and practices implemented with the funds provided pursuant to this chapter. A chief probation officer may petition the Administrative Office of the Courts to have this restriction waived, and the Administrative Office of the Courts shall have the authority to grant such a petition, if the CPO can demonstrate that the department is already devoting sufficient funds to the evaluation of these programs and practices.

(5) Each probation department receiving funds under this chapter shall maintain a complete and accurate accounting of all funds received pursuant to this chapter.

1231. (a) Community corrections programs funded pursuant to this act shall identify and track specific outcome-based measures consistent with the goals of this act.

(b) The Administrative Office of the Courts, in consultation with the Chief Probation Officers of California, shall specify and define minimum required outcome-based measures, which shall include, but not be limited to, all of the following:

(1) The percentage of persons on felony probation who are being supervised in accordance with evidence-based practices.

(2) The percentage of state moneys expended for programs that are evidence-based, and a descriptive list of all programs that are evidence-based.

(3) Specification of supervision policies, procedures, programs, and practices that were eliminated.

(4) The percentage of persons on felony probation who successfully complete the period of probation.

(c) Each chief probation officer receiving funding pursuant to Sections 1233 to 1233.6, inclusive, shall provide an annual written report to the Administrative Office of the Courts and the Department of Corrections and Rehabilitation evaluating the effectiveness of the community corrections program, including, but not limited to, the data described in subdivision (b).

(d) The Administrative Office of the Courts shall, in consultation with the chief probation officer of each county and the Department of Corrections and Rehabilitation, provide a quarterly statistical report to the Department of Finance including, but not limited to, the following statistical information for each county:

- (1) The number of felony filings.
- (2) The number of felony convictions.
- (3) The number of felony convictions in which the defendant was sentenced to the state prison.
- (4) The number of felony convictions in which the defendant was granted probation.
- (5) The adult felon probation population.
- (6) The number of felons who had their probation revoked and were sent to prison for that revocation.
- (7) The number of adult felony probationers sent to state prison for a conviction of a new felony offense, including when probation was revoked or terminated.

1232. Commencing no later than 18 months following the initial receipt of funding pursuant to this act and annually thereafter, the Administrative Office of the Courts, in consultation with the Department of Corrections and Rehabilitation, the Department of Finance, and the Chief Probation Officers of California, shall submit to the Governor and the Legislature a comprehensive report on the implementation of this act. The report shall include, but not be limited to, all of the following information:

(a) The effectiveness of the community corrections program based on the reports of performance-based outcome measures required in Section 1231.

(b) The percentage of felony probationers whose probation was revoked for the year on which the report is being made.

(c) The percentage of felony probationers who were convicted of crimes during their term of probation for the year on which the report is being made.

(d) The impact of the moneys appropriated pursuant to this act to enhance public safety by reducing the percentage and number of felony probationers whose probation was revoked for the year being reported on for probation violations or new convictions, and to reduce the number of felony probationers who are sent to prison for the year on which the report is being made.

(e) Any recommendations regarding resource allocations or additional collaboration with other state, regional, federal, or local entities for improvements to this act.

1233. (a) The Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee,

the Chief Probation Officers of California, and the Administrative Office of the Courts, shall calculate for each county a baseline probation failure rate that equals the average number of adult felony probationers sent to state prison during calendar years 2006 to 2008, inclusive, as a percentage of the average adult felony probation population during the same period.

(b) For purposes of calculating the baseline probation failure rate, the number of adult felony probationers sent to prison shall include those adult felony probationers sent to state prison for a revocation of probation, as well as adult felony probationers sent to state prison for a conviction of a new felony offense. The calculation shall also include adult felony probationers sent to prison for conviction of a new crime who simultaneously have their probation term terminated.

1233.1. After the conclusion of each calendar year following the enactment of this section, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall calculate the following for that calendar year:

(a) The cost to the state to incarcerate in prison and supervise on parole a probationer sent to prison. This calculation shall take into consideration factors, including, but not limited to, the average length of stay in prison and on parole for probationers, as well as the associated parole revocation rates, and revocation costs.

(b) The statewide probation failure rate. The statewide probation failure rate shall be calculated as the total number of adult felony probationers statewide sent to prison in the previous year as a percentage of the statewide adult felony probation population as of June 30 of that year.

(c) A probation failure rate for each county. Each county's probation failure rate shall be calculated as the number of adult felony probationers sent to prison from that county in the previous year as a percentage of the county's adult felony probation population as of June 30 of that year.

(d) An estimate of the number of adult felony probationers each county successfully prevented from being sent to prison. For each county, this estimate shall be calculated based on the reduction in the county's probation failure rate as calculated annually pursuant to subdivision (c) of this section and the county's baseline probation failure rate as calculated pursuant to Section 1233. In making this estimate, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall adjust the calculations to account for changes in each county's adult felony probation caseload in the most recent completed calendar year as compared to the county's adult felony probation population during the period 2006 to 2008, inclusive.

(e) In calculating probation failure rates for the state and individual counties, the number of adult felony probationers sent to prison shall include those adult felony probationers sent to state prison for a revocation of

probation, as well as adult felony probationers sent to state prison for a conviction of a new felony offense. The calculation shall also include adult felony probationers who are sent to prison for conviction of a new crime and who simultaneously have their probation terms terminated.

1233.2. Annually, after the conclusion of each calendar year, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall identify the appropriate Probation Revocation Tier for each county for which it was estimated that the county successfully prevented any number of adult felony probationers from being sent to state prison, as provided in subdivision (d) of Section 1233.1. The tiers shall be defined as follows:

(a) Tier 1. A Tier 1 county is one which has a probation failure rate, as defined in subdivision (c) of Section 1233.1, that is no more than 25 percent higher than the statewide probation failure rate, as defined in subdivision (b) of Section 1233.1.

(b) Tier 2. A Tier 2 county is one which has a probation failure rate, as defined in subdivision (c) of Section 1233.1, that is more than 25 percent above the statewide probation failure rate, as defined in subdivision (b) of Section 1233.1.

1233.3. Annually, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall calculate a probation failure reduction incentive payment for each eligible county, pursuant to Section 1233.2, for the most recently completed calendar year, as follows:

(a) For a county identified as being in Tier 1, as defined in subdivision (a) of Section 1233.2, its probation failure reduction incentive payment shall equal the estimated number of probationers successfully prevented from being sent to prison, as defined by subdivision (d) of Section 1233.1, multiplied by 45 percent of the costs to the state to incarcerate in prison and supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(b) For a county identified as being in Tier 2, as defined in subdivision (b) of Section 1233.2, its probation failure reduction incentive payment shall equal the estimated number of probationers successfully prevented from being sent to prison, as defined by subdivision (d) of Section 1233.1, multiplied by 40 percent of the costs to the state to incarcerate in prison and supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

1233.4. (a) It is the intent of the Legislature for counties demonstrating high success rates with adult felony probationers to have access to performance-based funding as provided for in this section.

(b) On an annual basis, the Department of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall calculate 5 percent of the savings

to the state attributed to those counties that successfully reduce the number of adult felony probationers sent to state prison.

(c) The savings estimated pursuant to subdivision (b) shall be used to provide high performance grants to county probation departments for the purpose of bolstering evidence-based probation practices designed to reduce recidivism among adult felony probationers.

(d) County probation departments eligible for these high performance grants shall be those with adult probation failure rates more than 50 percent below the statewide average in the most recently completed calendar year.

(e) A county probation department may receive a high performance grant under this section in a year in which it does not also receive a probation failure reduction incentive payment as provided for in Section 1233.3. The CPO of a county that qualifies for both a high performance grant and a probation failure reduction incentive payment shall indicate to the Administrative Office of the Courts, by a date designated by the Administrative Office of the Courts, whether the CPO chooses to receive the high performance grant or probation failure reduction payment.

(f) The grants provided for in this section shall be administered by the Administrative Office of the Courts. The Administrative Office of the Courts shall seek to ensure that all qualifying probation departments that submit qualifying applications receive a proportionate share of the grant funding available based on the population of adults ages 18 to 25, inclusive, in each of the counties receiving the grants.

1233.5. If data of sufficient quality and of the types required for the implementation of this act are not available to the Director of Finance, then the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, and the Administrative Office of the Courts, shall use the best available data to estimate probation failure reduction incentive payments and high performance grants utilizing a methodology that is as consistent with that described in this act as is reasonably possible.

1233.6. (a) Probation failure reduction incentive payments and high performance grants calculated for any calendar year shall be provided to counties in the following fiscal year. The total annual payment to each county shall be divided into four equal quarterly payments.

(b) The Department of Finance shall include an estimate of the total probation failure reduction incentive payments and high performance grants to be provided to counties in the coming fiscal year as part of the Governor's proposed budget released no later than January 10 of each year. This estimate shall be adjusted by the Department of Finance, as necessary, to reflect the actual calculations of probation revocation incentive payments and high performance grants completed by the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts. This adjustment shall occur as part of standard budget revision processes completed by the Department of Finance in April and May of each year.

(c) There is hereby established a State Community Corrections Performance Incentives Fund. Moneys budgeted for purposes of providing probation revocation incentive payments and high performance grants authorized in Sections 1230 to 1233.6, inclusive, shall be deposited into this fund. Any moneys deposited into this fund shall be administered by the Administrative Office of the Courts and the share calculated for each county probation department shall be transferred to its Community Corrections Performance Incentives Fund authorized in Section 1230. The Legislature may allocate up to 3 percent of the funds annually deposited into the State Community Corrections Performance Incentives Fund for use by the Administrative Office of the Courts for the costs of administering this program.

1233.7. The moneys appropriated pursuant to this chapter shall be used to supplement, not supplant, any other state or county appropriation for the chief probation officer or the probation department.

1233.8. This chapter shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 3. The Judicial Council shall consider the adoption of appropriate modifications to the Criminal Rules of Court, and of other judicial branch policies, procedures, and programs, affecting felony probation services that would support implementation of the evidence-based probation supervision practices described in this chapter.

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

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Twenty Evidence-Based Sentencing Practices To Reduce Recidivism

- 1. Avoid significant intervention with low risk offenders.**
- 2. Target significant interventions on moderate to high risk offenders.**
- 3. The individual offender's specific dynamic risk factors (criminogenic needs) should be identified through use of validated actuarial risk/needs assessment tools and professional judgment.**
- 4. Conditions of probation, behavioral controls, and offender treatment programs should target the individual offender's specific dynamic risk factors.**
- 5. Only those conditions of probation that are directly related to the individual offender's dynamic risk factors, or to other significant sentencing objectives, should be imposed. The conditions of probation establish the framework for the probation agency's development of an appropriate case management plan. The imposition of other probation conditions distracts and impedes both the probation agency and the offender. Probation conditions should provide maximum flexibility to the probation officer.**
- 6. Cognitive behavioral programs rooted in social learning theory are the most effective in reducing recidivism among higher risk offenders.**
- 7. Offenders will tend to behave in ways that result in the most rewards and fewest punishments.**
- 8. Rewards are more effective than sanctions. Use positive reinforcement as well as negative consequences.**
- 9. Changing an offender's chronic anti-social thinking and behavior often does not happen overnight. Frequently, the offender must learn new skills and acquire new abilities. Periodic relapse is also common.**
- 10. Treatment must be individually determined because the nature, dosage, and intensity of treatment must be responsive to the offender's personal characteristics.**

**Twenty (20) Evidence-Based Sentencing Practices
To Reduce Recidivism (continued)**

- 11. Treatment programs must provide continuity of care. To the extent possible, the offender's family and community should be involved in the offender's treatment.**
- 12. As recommended by the Conference of Chief Justices, judges should educate themselves about the effectiveness of the community-based corrections programs in their jurisdictions in reducing recidivism, and, when appropriate, utilize those programs shown to be effective.**
- 13. The offender's successful compliance with all conditions of probation should be, and be seen as, the shared goal of the court, offender, supervising probation agency, and all program providers.**
- 14. All violations of probation should be responded to promptly, fairly, and with certainty.**
- 15. In responding to violations, use a graduated continuum of sanctions, services, and behavioral controls.**
- 16. The most appropriate response to a particular violation of probation depends on the severity of the violation, the extent of prior compliance, and the offender's adjusted level of risk.**
- 17. The judge can be an agent of positive change by encouraging the offender's engagement in the change process. Intrinsic motivation is a critical precondition for offender behavioral change.**
- 18. The judge should be aware of the "stages of change" model which is a useful tool for understanding the offender's readiness to change and the corresponding strategies that have proven most effective in facilitating behavior change.**
- 19. When appropriate, the judge should also consider use of "motivational interviewing" techniques (e.g., reflective listening, developing discrepancy, use of open-ended questions, promoting self-efficacy, and deflecting resistance.) The judge should avoid threatening, lecturing, arguing, shaming, or sympathizing with the offender.**
- 20. To achieve multiple sentencing objectives (e.g., risk reduction, punishment, and behavioral control), treatment provisions must be successfully integrated with intermediate sanctions and behavioral controls.**