

Date of Hearing: July 2, 2024  
Chief Counsel: Gregory Pagan

## ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Kevin McCarty, Chair

SB 1132 (Durazo) – As Amended April 9, 2024

**SUMMARY:** Clarifies that local county health officers (LHO) are authorized to inspect health and sanitary conditions in private detention facilities.

**EXISTING LAW:**

- 1) Requires each county board of supervisors (board) to appoint a LHO. Requires LHOs to enforce and observe orders of the board pertaining to public health and sanitary matters, including regulations prescribed by the California Department of Public Health (DPH), and statutes relating to public health. (Health & Saf., Code, § § 101000 and 101030.)
- 2) Requires LHOs to investigate health and sanitary conditions in every publicly operated detention facility in the county or city (including county and city jails), and all private work furlough facilities and programs, at least annually. Requires private work furlough facilities and programs to pay an annual fee commensurate with the annual cost of investigations. Permits LHOs to make additional investigations of any detention facility as determined necessary. Requires LHOs to submit a report to the Board of State and Community Corrections (BSCC), the person in charge of the jail or detention facility, and to the board or city governing board (in the case of a city that has an LHO). (Health & Saf. Code, § 101045, subd. (a).)
- 3) Requires LHOs, whenever requested by the sheriff, the chief of police, local legislative body, or the BSCC, but not more often than twice annually, to investigate health and sanitary conditions in any jail or detention facility, and submit a report to the officer and agency requesting the investigation and to the BSCC. (Health & Saf. Code, § 101045, subd. (b).)
- 4) Requires the investigating LHO to determine if the food, clothing, and bedding is of sufficient quantity and quality that at least equal minimum standards and requirements of the BSCC for the feeding, clothing, and care of prisoners in all local jails and detention facilities, and if the sanitation requirements under the California Retail Food Code, have been maintained. (Health & Saf. Code, § 101045, subd. (c).)
- 5) Defines a “detention facility” as a facility in which persons are incarcerated or otherwise involuntarily confined for purposes of execution of a punitive sentence imposed by a court or detention pending a trial hearing or other judicial or administrative proceeding. Defines a “private detention facility” as a detention facility that is operated by a private, nongovernmental, for-profit entity pursuant to a contract or agreement with a governmental entity. Specifies that a “detention facility” does not include:

- a) A facility providing rehabilitative, counseling, treatment, mental health, educational, or medical services to a juvenile that is under the jurisdiction of the juvenile court;
- b) A facility providing evaluation or treatment services to a person who has been detained, or is subject to an order of commitment by a court;
- c) A facility providing educational, vocational, medical, or other ancillary services to an inmate in the custody of, and under the direct supervision of, the Department of Corrections and Rehabilitation or a county sheriff or other law enforcement agency;
- d) A residential care facility;
- e) A school facility used for the disciplinary detention of a pupil;
- f) A facility used for the quarantine or isolation of persons for public health reasons; or,
- g) A facility used for the temporary detention of a person detained or arrested by a merchant, private security guard, or other private person. (Gov. Code, § 7320.)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, "“The ability of county public health officers to enter and inspect private detention facilities is not clearly addressed under current California law. As it stands the relevant statutes empower county health officials to enter public detention facilities and private work furlough facilities. The lack of clarity on oversight of private detention facilities poses a unique and critical public health challenge. Conditions in these facilities not only affect the lives of those detained, but also impacts the surrounding communities. During the COVID-19 pandemic, an outbreak at Otay Mesa Detention Facility resulted in more than 300 staff and detained individuals becoming infected.”"
- 2) **Private Detention Facilities.** The federal government contracts with private detention facilities across the country to house immigration detainees. There are currently six private detention facilities operating in California in four counties—San Bernardino County, Kern County, San Diego County, and Imperial County. Federal, state, and local laws, including county public health orders, govern all immigration detention facilities operating in California. According to the California Department of Justice, facilities that contract to hold detained noncitizens are also required to comply with national detention standards, which establish requirements for emergency planning, security protocols, detainee classification, discipline, medical care, food service, activities and programming, detainee grievances, and access to legal services. The standards set the expectation that the Centers for Disease Control and Prevention guidelines for the prevention and control of infectious and communicable diseases are to be followed and directs each facility have written plans that address the management of infectious and communicable diseases.

- 3) **Inspection of Detention Facilities.** LHOs serve a number of public health functions at the local level, including managing infectious disease control, implementing emergency preparedness and response, and overseeing public health services. There are 61 appointed physician LHOs in California—one for each of the 58 counties and the cities of Berkeley, Long Beach, and Pasadena. Regulations establish minimum standards for local detention facilities, including standards for the administration and operation of the facilities, medical and mental health care, nutritional quality of food, and environmental standards. Regulations define “local detention facility” to mean “any city, county, city and county, or regional jail, camp, court holding facility, or other correctional facility, whether publicly or privately operated, used for confinement of adults or of both adults and minors, but does not include that portion of a facility for confinement of both adults and minors which is devoted only to the confinement of minors.”

County jails, city jails, and other publicly operated detention facilities are subject to biennial inspections by the BSCC. Those biennial inspections include the annual health and safety inspections that LHOs are required to conduct annually, and which LHOs are authorized to conduct more frequently if necessary. The BSCC is required to publicly post the inspection reports as well as submit a report every two years to the Legislature which includes information pertaining to the inspection of those local detention facilities that have not complied with the minimum standards, specifying the areas in which the facility has failed to comply and the estimated cost to the facility in order to comply with the minimum standards.

- 4) **Jurisdiction Over Private Detention Facilities.** According to the National Center for Immunization and Respiratory Diseases, communicable disease can easily spread in congregate living facilities or other housing where people who are not related reside in close proximity and share at least one common room. According to a 2021 *CalMatters* article, during the COVID-19 pandemic, there were reports that there was confusion about the role of state and local health authorities with regard to federal detention facilities, which may have led to delays for vaccine distribution. For example, immigrant rights organizations sent a letter to public health officials in Kern County asking about LHO oversight, including how it planned to ensure detainees were being tested for COVID-19. In response, the county’s director of public health services said they did not have jurisdiction over the center. *CalMatters* indicated that there were similar instances of confusion over jurisdiction in other counties. This bill clarifies that LHOs have authority to inspect private detention facilities as deemed necessary. This bill would not impose an annual inspection requirement.
- 5) **Health Concerns in Private Detention Facilities.** According to a January 2023 article published in the *Los Angeles (LA) Times*, an investigation by the California Division of Occupational Safety and Health found six violations of state code by a private detention facility operator, which appealed. The *LA Times* reported that the complaint was filed by Immigrant Defense Advocates and the California Collaborative for Immigrant Justice on behalf of several detainees, alleging safety violations including failures by the facility administrators to provide personal protective equipment, maintain sanitary work spaces, prevent the spread of COVID-19 and safeguard against workplace-related illnesses and injuries.
- 6) **Argument in Support:** According to the *Ella Baker Center for Human Rights*, “Detention facilities pose a unique challenge with respect to public health and sanitary conditions, and as such, are typically inspected by public health officials. Detention facilities can pose a public

health risk to individuals held inside, as well as those who work, visit, or live near these sites.

“In the past, the majority of private detention facilities in California operated pursuant to joint contracts with counties, but have since shifted to direct contracts with the federal government. Despite this change, according to their federal contracts these private facilities remain subject to California state and local public health oversight.

“While public health oversight laws empower inspections of “publicly operated detention facilities and all private work furlough facilities” they do not explicitly cover private detention facilities. [See California Code, Health and Safety Code - HSC § 101045].

“Poor health conditions in these facilities have been widely documented, with reports by Disability Rights noting that the Adelanto Detention facility, “... has an inadequate mental health care and medical care system, made worse by the facility’s harsh and counter-therapeutic practices.”

“Private detention facilities continue to pose challenges with respect to health, safety and sanitary conditions. Detained individuals in these facilities continue to file numerous grievances in private facilities. These grievances primarily revolve around detainees facing challenges in accessing timely medical attention, enduring prolonged waits for treatment of persistent conditions—stretching to months—and encountering difficulties in obtaining essential medications. One specific detainee recounted losing multiple teeth due to a two-year delay in receiving dental cavity fillings. During inspections, a prison dentist reportedly proposed that detainees could improve their dental hygiene by using strings from their shoes for flossing their teeth.

“The goal of SB 1132 is to ensure that county health officials have the ability to enter these facilities when necessary. The bill does not impose an annual inspection requirement to county health officials, but empowers them to ensure that these private facilities adhere to public health orders and guidelines that are necessary to keep our state safe.”

#### 7) **Prior Legislation:**

- a) AB 263 (Arambula), Chapter 294, Statutes of 2021, requires a private detention facility operator to comply with, and adhere to, all local and state public health orders and occupational safety and health regulations.
- b) AB 3228 (Bonta, Ch. 190, Stats. 2020) requires a private detention facility operator to comply with, and adhere to, the detention standards of care and confinement agreed upon in the facility’s contract for operations. This bill also provides a private right of action for an individual injured by noncompliance with the above standards, as specified, and allows the court to award a prevailing plaintiff reasonable attorney’s fees and costs.

**REGISTERED SUPPORT / OPPOSITION:****Support**

ACLU California Action  
Advancing Justice - Asian Law Caucus  
Alliance for Boys & Men of Color  
Amnesty International USA  
Asian Americans Advancing Justice - California  
California Coalition for Women Prisoners  
California Collaborative for Immigrant Justice  
California Immigrant Policy Center  
California Pan - Ethnic Health Network  
California Public Defenders Association  
California Rural Legal Assistance Foundation (crla Foundation)  
California Voices for Progress  
Center for Gender & Refugee Studies  
Center for Immigration Law & Policy At UCLA School of Law  
Central Valley Immigrant Integration Collaborative  
Communities United for Restorative Youth Justice (CURYJ)  
Disability Rights California  
Dolores Huerta Foundation  
Ella Baker Center for Human Rights  
Friends Committee on Legislation of California  
Health Officers Association of California  
Human Impact Partners  
Immigrant Defense Advocates  
Immigrant Legal Defense  
Indivisible CA Statestrong  
Initiate Justice  
Inland Coalition for Immigrant Justice  
Interfaith Movement for Human Integrity  
Keck Human Rights Clinic  
Kern Welcoming and Extending Solidarity to Immigrant  
LA Cosecha  
Latin Advocacy Network  
Lawyers Committee for Civil Rights of The San Francisco Bay Area  
National Lawyers Guild San Francisco Bay Area Chapter  
Nextgen California  
Norcal Resist  
Oakland Privacy  
Orale: Organizing Rooted in Abolition Liberation and Empowerment  
Public Counsel  
San Francisco Marin Medical Society  
Secure Justice  
Smart Justice California, a Project of Tides Advocacy  
Social Justice Collaborative  
Southeast Asia Resource Action Center

The Immigrant Health Equity and Legal Partnership  
The Justice & Diversity Center of The Bar Association of San Francisco  
Worksafe

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