

Community Rebound Act

SECTION 1. This Act shall be known and may be cited as the Community Rebound Act of 2021.

(A) Purpose. This Act changes how State funding for parole and probation offices is distributed so that offices are rewarded for successfully rehabilitating people on community supervision.

(B) Definitions. As used in this Act:

(i) “Baseline probation failure rate” shall mean the average of the felony probation failure rates for fiscal years [2018], [2019], and [2020] where each fiscal year’s failure rate shall be the quotient of the number of people on felony probation who were incarcerated for violations of the terms of supervision in a supervision jurisdiction divided by the total number of people on felony probation in a supervision jurisdiction.

(ii) “Baseline parole failure rate” shall mean the average of the parole failure rates for fiscal years [2018], [2019], and [2020] where each fiscal year’s failure rate shall be the quotient of the number of people on parole who were returned to incarceration for violations of the terms of supervision in a supervision jurisdiction divided by the total number of people on parole in a supervision jurisdiction.

(iii) “Evidence-based practices” shall mean supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or post-release supervision.

(iv) “Enter[ing] to prison” shall refer to a revocation of probation in which the destination is a State prison, jail, or other facility for the purposes of incarceration.

(v) “Marginal cost of incarceration” shall mean the sum of all short-term variable costs associated with incarcerating an individual in a State facility. The term includes only those correctional costs that marginally change in proportion to the inmate population of a facility.

(vi) “Probation and parole programming” shall mean any programs consisting of a system of probation and parole supervision services dedicated to any of the following goals:

(a) Improving outcomes for persons placed on probation or parole after an offense, measured by incarceration and re-incarceration rates.

(b) Providing a range of supervision tools, sanctions, and services applied to probationers and parolees based on a risk and/or needs assessment for the purpose of reducing criminal

- conduct and promoting individualized behavioral change that results in reducing recidivism and promoting successful reintegration into the community;
- (c) Maximizing offender restitution, reconciliation, and restorative services to victims of crime, when applicable;
- (d) Holding probationers and parolees accountable to ensure successful compliance with applicable court orders and conditions of supervision;

(vii) “Return[ing] to prison” shall refer to a revocation of parole in which the destination is a State prison, jail, or other facility for the purposes of incarceration.

(viii) “Supervision jurisdiction” shall mean each local or regional supervision entity, tasked with administering parole or felony probation, which sets or receives a budget for the purposes of supervising people on parole or felony probation in a specific geographic area or judicial district.

SECTION 2. A new section of State Code is created, which shall read:

(A) Allocation of Funds. All amounts appropriated for purposes of implementing this chapter will be provided to the [Department of Corrections’ Division of Probation and Parole] to administer for implementation of probation and parole programming, as specified.

(i) Funds will be moved from the General Fund to the [Department of Corrections’ Division of Probation and Parole], which after making appropriate calculations under section 2(E) will disburse funding to eligible supervision jurisdictions for their use as follows:

- (a) 60% of funds shall be used to improve supervision and rehabilitative services, as described in section 2(B)(iv), at the discretion of the respective regional administrator.
- (b) 25% of funds shall be used for performance-based financial bonuses for all staff within a supervision jurisdiction that receives funding for improved performance.
- (c) 15% of funds will be kept by the [Division of Probation and Parole] for administrative and data-collection purposes.

(ii) In any fiscal year in which a supervision jurisdiction receives money to be expended for the implementation of this chapter, the funds, including any interest, shall be made available to the [Department of Corrections], within 30 days of the deposit of those moneys, for the implementation of probation and parole programming authorized by this chapter.

(iii) The [oversight agency] will provide oversight periodically regarding the monetary allocation to each supervision jurisdictions tasked with administering the monies to ensure that disbursed funds are being used in accordance with this section.

(iv) Funds appropriated pursuant to this act shall be used to improve supervision and rehabilitative services for probationers and parolees, which may include, but are not limited to, the following:

- (a) Implementing and expanding evidence-based practices for risk and needs assessments for individualized programming;
- (b) Implementing and expanding intermediate sanctions that include, but are not limited to, mandatory community service, home detention, day reporting, restorative justice programs, and work furlough programs;
- (c) Expanding the availability of evidence-based practices for 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;
- (d) Hiring additional officers, associates, or other personnel to supervise and help oversee and implement evidence-based practices for rehabilitative programming;
- (e) Giving financial bonuses to staff in supervision jurisdictions that are awarded funds under this act;
- (f) Purchasing and adopting new technologies or equipment that are relevant and enhancing to the task of supervision or rehabilitation.
- (g) Evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.

(v) The [Division of Probation and Parole] shall maintain a complete and accurate accounting of any and all funds received pursuant to this chapter.

(B) Outcome-based Measurements. The [Division of Probation and Parole] shall define and track specific outcome-based measures, which shall include, but shall not be limited to, all the following:

- (i) The number and types of parole and/or probation programs that were eliminated, replaced, or created in each supervision jurisdiction.
- (ii) The percentage of persons on probation and parole who successfully complete the period of supervision in each supervision jurisdiction and statewide, both in absolute terms and as a percentage of the total number of persons on probation in each supervision jurisdiction and statewide in a given fiscal year.

(C) Marginal Cost of Incarceration. After the conclusion of each fiscal year following the enactment of this section, the [executive budget office, in consultation with the Department of Corrections] shall calculate the marginal cost of incarceration for prison for that fiscal year.

(i) This calculation shall consider factors, including, but not limited to, the average length of stay in prison for persons either entering or returning to prison from parole or probation and variable costs associated with corrections such as health care services, food, and clothing.

(D) Data Collection Requirements. After the conclusion of each fiscal year following the enactment of this section, the [Division of Probation and Parole] shall gather the data and calculate the following for that fiscal year:

(i) Baseline Probation Failure Rate per supervision jurisdiction. The [Division of Probation and Parole] shall calculate for each supervision jurisdiction a baseline probation failure rate.

(a) For purposes of calculating the baseline probation failure rate, the number of adult probationers entering prison shall include those probationers convicted of a new offense, as well as those probationers whose probation has been revoked and who are sent to State prison for any other reason, such as, but not limited to, a technical violation.

(ii) Baseline Parole Failure Rate per supervision jurisdiction. The [Division of Probation and Parole] shall calculate for each supervision jurisdiction a baseline parole failure rate.

(a) For purposes of calculating the baseline parole failure rate, the number of adult parolees returning to prison shall include those parolees convicted of a new offense, as well as those parolees whose parole has been revoked and who are sent to State prison for any other reason, such as, but not limited to, a technical violation.

(iii) Current Probation and Parole Failure Rates per supervision jurisdiction. The [Division of Probation and Parole] shall calculate for each supervision jurisdiction probation and parole failure rates that equal the number of adult felony probationers and parolees in that supervision jurisdiction who entered prison over the last fiscal year as a percentage of the total adult felony probation and parole population in that supervision jurisdiction during the same period.

(a) In calculating the probation and parole failure rate for each supervision jurisdiction, the number of adult probationers and parolees in a supervision jurisdiction who failed shall include those probationers and parolees who entered prison due to a conviction of a new offense, as well as those who entered prison for any other reason, such as, but not limited to, a technical violation.

(iv) Comparative Performance Calculation. The [Division of Probation and Parole] shall estimate the number of adult probationers and parolees each supervision jurisdiction successfully prevented from entering or returning to prison.

(a) For each supervision jurisdiction, this estimate shall be calculated based on the reduction in the supervision jurisdiction's current probation failure rate, as calculated annually pursuant to section 2(D)(iii), compared to the supervision jurisdiction's baseline probation failure rate, as calculated pursuant to section 2(D)(i).

(b) For each supervision jurisdiction, this estimate shall be calculated based on the reduction in the supervision jurisdiction's current parole failure rate, as calculated

annually pursuant to section 2(D)(iii), compared to the supervision jurisdiction's baseline parole failure rate, as calculated pursuant to section 2(D)(ii).

(c) In making this estimate, the [State Treasurer], in consultation with the [Department of Corrections and its Division of Probation and Parole], shall adjust the calculations to account for changes in each supervision jurisdiction's adult probation and parole caseload in the most recent completed fiscal year as compared to the supervision jurisdiction's adult probation and parole population during the period [20xx–20xx], inclusive.

(E) Distributing Incentive Funding. The [State Treasurer], in consultation with the [Department of Corrections], shall calculate the amount that each supervision jurisdiction is eligible to receive as an incentive payment for reducing probation and parole failure rates in the most recently completed fiscal year, as follows:

(i) For each supervision jurisdiction, its probation and parole failure reduction incentive payment shall equal, if any, the supervision jurisdiction-specific historical baselines outlined in section 2(D)(i) and (ii) minus the supervision jurisdiction-specific probation and parole failure rates for the most recent completed fiscal year as outlined in section 2(D)(iii), multiplied by the marginal cost of incarceration as outlined in section 2(C).

(ii) The incentive funding for both probation and parole will be calculated for each supervision jurisdiction, then combined.

(iii) The total incentive funding amount for any given year will be held in the General Fund then appropriated to the [Division of Probation and Parole within the Department of Correction's budget].

(iv) The [Division of Probation and Parole] will then proportionately disburse the incentive funds to each supervision jurisdiction based on the specific calculation according to section 2(E)(i).

(v) If data of sufficient quality and of the types required for the implementation of this act are not available, then the [Division of Probation and Parole] shall use the best available data to estimate probation and parole failure reduction rates utilizing a methodology that is as consistent with that described in this act as is reasonably possible.

(vi) Within sixty days after the effective date of this act, the [Department of Treasury] shall include an estimate of the total funds to be held and administered under this section in the coming fiscal year as part of the Governor's proposed budget for the [Division of Probation and Parole].

(vii) The funds appropriated pursuant to this chapter shall be used to supplement, not supplant, any other State or other appropriation for a supervision jurisdiction.

(vii) No supervision jurisdiction may receive incentive funds under section E)(i) if the jurisdiction's rate of revocations based on the commission of a new crime increases.

(F) Reporting Requirements. Commencing no later than 18 months following the initial receipt of funding from the General Fund pursuant to this Act, and annually thereafter, the [Department of Corrections] 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 the following information:

(i) The effectiveness of probation and parole programming based on the reports of outcome-based measures required in section 2(D).

(ii) The number and proportion of adult probationers and parolees whose supervision was revoked in each supervision district for the year on which the report is being made.

(iii) The number and proportion of adult probationers and parolees who were convicted of new crimes during their term of supervision in each supervision jurisdiction for the year on which the report is being made.

(iv) The total number of adult probationers and parolees in each supervision jurisdiction.

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

SECTION 3. Severability and effective date.

(A) Severability. It is the intention of the legislature that the provisions of this section shall be severable. If any provision of this section or its application to any person or circumstance is held invalid, the remainder of the section or the application of the provision to other persons or circumstances is not affected, including but not limited to the applicability of this section to the provisions of future agreements subject to this section.

(B) Effective Date. This Act takes effect on January 1, 2022.