

SB678 Frequently Asked Questions

(Updated August 9, 2012)

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**If you have other questions, please contact 415-865-7850
or email communitycorrections@jud.ca.gov**

Legislation

Q1: Will the SB 678 program end now that public safety realignment has been enacted and fewer offenses are prison eligible?

A: The SB 678 program will sunset in January 2015 unless reauthorized. Pursuant to Penal Code (PC) §1233.15, the Department of Finance (DOF) in consultation with the AOC, California Department of Corrections and Rehabilitation (CDCR), and Chief Probation Officers of California (CPOC) must develop a revised formula that takes into consideration the significant changes to the eligibility of some felony probationers for revocation to state prison resulting from the implementation of the 2011 Public Safety realignment.

Q2: Where can I find the full text of the legislation?

A: The most up-to-date text of PC §1228-1233.8 can be found [here](#).

Q3: Where can I get a summarized version of the legislation, as well as some general background?

A: The Community Corrections Program created an [explanation of the legislation](#) that goes through some of the justifications and elements of the legislation.

Reporting

Q4: If we discover that we reported data incorrectly in calendar years 2010 or 2011 or for the baseline years can we make revisions?

A: Calendar year 2010 and 2011 data revisions can be submitted if errors are discovered, but will not affect funding amounts already allocated. Please submit revisions to these years if you find an error and include a brief note as to the

reason for the revision. Pursuant to PC §1232, the AOC is required to prepare a report for legislature describing the impact of SB 678. We will note any revised data in this report.

At this time no changes to baseline figures can be made. If you discover discrepancies in your baseline data, however, please send us revised baseline numbers which we will note in our system.

Q5: Why did you choose to use state data sources to collect some of the data required by SB 678 legislation instead of just using county probation department data for everything?

A: Based on the results of initial conversations and data validation efforts, all data that determine funding (mainly revocations and population) are currently collected directly from county probation departments. Other information required by the legislation that does not directly affect funding (such as county-wide felony filings and convictions) is not available to all probation departments and will therefore be collected from statewide data sources.

Q6: What is the PMT used for the ARRA/Stimulus funds? How is it different from the online quarterly statistical report for SB 678?

A: The PMT is the tool administered by CalEMA to collect data on the [American Reinvestment and Recovery Act](#) (ARRA) money enacted in AB1. The PMT is administered by CalEMA and the Bureau of Justice Assistance. The SB 678 online quarterly statistical report (as well as the evidence-based practices annual assessment survey) is administered by the AOC and the Community Corrections program. This online quarterly statistical report will be used throughout the life of the legislation to collect and report data required by the SB 678 legislation and is not related to the PMT.

Counting and Definitions

Q7: Post October 1, 2011, do we include individuals on Post Release Community Supervision or Mandatory Supervision in any of the counts?

A: At this time, individuals on Post Release Community Supervision and Mandatory Supervision are not included in any of the counts, unless an individual is also on adult felony probation.

Q8: It seems like questions #2 (“County Jail Revocations/Commitments”) and #2a (“County Jail Revocations/Commitments for New Offenses”) in the quarterly data collection survey are asking us to count individuals on Mandatory Supervision. I thought

we are supposed to exclude this population from all counts?

A: Questions #2 and #2a are capturing instances where an individual on felony probation is sent to county jail pursuant to PC §1170(h). We need to continue to track outcomes for individuals on felony probation. Under realignment, felony probationers can now be sent to county jail for a revocation or for a new felony conviction and we want to capture that in this question.

Q9: In questions #2 and #2a should we count only when an individual is given a straight 1170 sentence or also when they are given a split sentence and have a period of Mandatory Supervision?

A: Questions #2 and #2a capture felony probationers given straight or split sentences. In short, any felony probationer who is sent to county jail as a result of a new crime or a revocation of probation should be included.

Q10: In question #3 (“Probation Revocations”) in the quarterly data collection survey, should we count total number of revocations or total number of individuals with a revocation of any type?

A: Question #3 captures the number of *individuals* with revocations. For example, if in one quarter an individual is summarily revoked, and is then reinstated, and later revoked and sentenced to jail or prison, this would count as *one* revocation. This will include the counts in questions #1 (“Prison Revocations/Commitments”) and #2 (“County Jail Revocations/Commitments”) as well as all other types of revocations.

Q11: Should individuals on warrant status be included in the counts?

A: Yes, individuals on warrant status should be included in all counts. If you count those on warrant status in both your baseline and yearly numbers it should not affect your final rate.

Q12: How do we count Interstate Compact cases?

A: Incoming Interstate Compact cases should not be counted. Legal jurisdiction is retained by the sending state. Outgoing interstate cases should be counted since the county retains legal jurisdiction.

Q13: In counting the number of probation grants, do we include new convictions that are added to an existing person’s probation grant?

A: No, the count of probation grants is for new probation cases for people being added to your county’s probation rolls in the period.

Q14: Are the population and revocation counts of a particular age group?

A: No, the population and revocation counts should encompass all adult felony probationers.

Q15: Do we include someone on felony probation in our county who is sent to prison from another county?

A: Yes, the revocation would be counted where the person was on probation. If the offender is on felony probation in County A and commits a new offense in County B for which he is committed to prison on the new case, County A would record the revocation. County B would not be required to report the prison sentence as the offender was not on probation in their county.

Q16: How do we count someone who is serving concurrent sentences in different counties?

A: Pursuant to PC §1203.9, individuals are supposed to be on probation in one county at a time, and therefore the probationer should be counted in the population of only one county. Offenders should no longer remain on supervised probation in two different counties thus they would be counted in whichever county ultimately retained legal jurisdiction subsequent to a PC §1203.9 hearing process. If the §1203.9 process is incomplete when a probationer is revoked and sentenced to prison and it is unclear which county retains final jurisdiction, then the county that revoked and sentenced the probationer to prison should count the revocation.

Q17: Should the population count include people on conditional felony grants (court probation)?

A: These people will not be included in population counts or revocations to prison since they are not supervised by probation departments.

Q18: How do we count someone who is on probation *and* any of the following: parole; Post Release Community Supervision; or Mandatory Supervision?

A: Since the person is on supervised probation in your county, they should be included in all counts.

Q19: Should individuals on both non-revocable parole and probation be counted in the population?

A: Probationers on both felony adult probation and non-revocable parole would be counted in the population and revocations since they are being supervised in the county.

Q22: How do we count "paper commitments"?

A: All prison commitments resulting in a prison term in state prison are counted regardless of their housing status.

Q23: If an individual was sent to prison or jail twice in one year or quarter, would he be counted twice or only once? That is, if an individual was on probation and was sent to prison or jail, was then released in the same year or quarter, was convicted of a new felony offense and given a new grant of probation, and was then sentenced to prison or jail again within the same year or quarter, how many times would that person be counted?

A: That individual would be counted twice both for revocations and for new probation grants. The general rule is to count each individual once, however in a case like this the person was sent to prison or jail the second time for an entirely new offense after being sentenced to an entirely new term of probation. The individual is, in essence, “starting fresh” after the first prison or jail revocation.

Q24: Do we include those revoked to the federal prison system in questions #1 (“Prison Revocations/Commitments”) and #1a (“Prison Revocations/Commitments for New Offenses”)?

A: No, only those revoked to the California state prison system are included in the revocation count in questions #1 and #1a.

Q25: On the quarterly reporting form, how is question #1 (“Prison Revocations/Commitments”) different from #1a (“Prison Revocations/Commitments for New Offenses”)??

A: The total revocations are a combination of **both** violations of probation and new offenses resulting in the person being sent to state prison. The new offense question is **only** those sent to prison for a new felony offense conviction. Both numbers are required by the legislation.

Q26: How do I count this if an offender is sent to prison for a technical violation of probation **and** for a new felony conviction?

A: These cases are counted as new offenses in the reporting form.

Q27: Do we include deferred entry of judgment?

A: No, those on deferred entry of judgment are not on “adult felony probation”, thus are not counted in the population or in the revocation county.

Funding

Q28: When will SB 678 payments be distributed in fiscal year 12-13?

A: Based on last year, payments should be distributed on October 1, 2012; January 1, 2013; April 1, 2013; and, June 30, 2013.

Q29: How is the funding formula being revised in light of realignment?

A: The SB 678 funding formula is currently based on reductions in probation failure to prison rates among traditional adult felony probationers from baseline to current year. The original baseline, however, needs to be modified to reflect realignment changes in who is eligible for prison. Because fewer offenders are now eligible for revocation to state prison than in the baseline years, the funding formula must account for any reduction in the number of offenders revoked to state prison as a result of the realignment rather than successful probation supervision.

Pursuant to PC §1233.15, the AOC, the DOF, CPOC, and the CDCR are working together to determine the exact methodology that will be used to modify the baseline, and to determine whether other modifications to the funding formula are needed in light of these statutory changes.

Q30: Can SB 678 funds be carried over to the next fiscal year?

A: Yes, SB 678 funds can be carried over.

Q31: The legislation states that funds must be expended on evidence-based community corrections practices and programs. What qualifies as an evidence-based practice and what entity approves expenditures?

A: Penal Code §1229(d) defines evidence-based practices as *“supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or postrelease supervision.”* PC §1230(b)(3) further states that:

“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 (d) 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.”

The AOC collects information on how SB 678 funds were spent in the annual evidence-based practices assessment survey. Whether a given program or expenditure fits the definition above is left to the discretion of the Chief Probation Officer pursuant to PC §1230(b)(4), with the requirement that at least 5% of funds must be devoted to evaluation (see below).

Q32: The legislation states that 5% of SB 678 funding must be devoted to the evaluation of the effectiveness of programs and practices implemented with SB 678 funds. Does this requirement apply to every year of the program? What qualifies as an evaluation activity?

A: Yes, the 5% evaluation requirement applies to each year your county receives funds pursuant to PC §1230(b)(5). Evaluation funds must be used to support evaluation activities to determine whether your SB 678-funded programs and practices are effective in reducing recidivism among individuals on adult felony probation supervision or in ensuring program fidelity.

Specific uses may include:

- Evaluating the effectiveness of SB 678-funded rehabilitation programs using scientific research methods;
- Evaluating the effectiveness of SB 678-funded supervision practices or policies using scientific research methods; and
- Measuring the fidelity of SB 678-funded rehabilitation or supervision programs or practices to evidence-based programs or practices.

Evaluation costs may include any costs that are reasonably and directly related to the evaluation activities described above, including costs incurred for personnel, outside consultants and contractors, training, data collection, and analysis that are reasonably and directly related to planning the evaluation activity, carrying it out, supervising it, or reporting the results. Evaluation funds do not have to be completely spent in the year they are awarded. Counties can reserve funds for evaluation across fiscal years and awards to complete longitudinal research or pool money from multiple years for evaluation purposes.

Q33: What types of expenditures are considered “supplanting” and therefore not allowed under PC §1233.7?

A: It is up to the Chief Probation Officer to decide if county use of funds supplants existing resources.

Q34: How much will a county probation department get back from the state for each person not sent to state prison? How is that calculated?

A: The actual amount that a county probation department gets back per person not revoked relative to the county baseline will be either 40% or 45% of the marginal cost of incarceration and parole supervision as determined by the DOF, depending on the tier to which the county is assigned (see below for definition of tiers). The marginal cost of incarceration and parole supervision (as well as the average length of stay in prison, which also affects funding amounts) are recalculated by DOF each year.

Q35: What’s a tier and how does my county get assigned to Tier 1 or Tier 2?

A: Tiers distinguish how counties’ Probation Failure Rate (PFR) compares to the statewide average. A Tier 1 county has a PFR up to 25% above the state average. A Tier 2 county has a PFR above 25% of the statewide PFR. Tier 1 counties will receive back 45% of the savings they generate for the state, while Tier 2 counties will receive 40%. Tiers are recalculated each year.

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