JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: July 28, 2015

Title
Judicial Council Report to the Legislature: Findings From the SB 678 (California Community Corrections Performance Incentives Act of 2009) Program

Rules, Forms, Standards, or Statutes Affected
None

Recommended by
Judicial Council staff
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Agenda Item Type
Action Required

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Executive Summary

The Criminal Justice Services office recommends that the Judicial Council receive the *Report on the California Community Corrections Performance Incentives Act of 2009: Findings From the SB 678 Program* (2015) and direct the Administrative Director to submit this report to the California Legislature and Governor, as mandated by Penal Code section 1232. Under the statute, the Judicial Council is required to submit a comprehensive report on the implementation of the act—including information on the effectiveness of the act and specific recommendations regarding resource allocations and additional collaboration—no later than 18 months after the initial receipt of funding under the act and annually thereafter. The report was developed in consultation with the California Department of Corrections and Rehabilitation, the California Department of Finance, and the Chief Probation Officers of California.

Recommendation

Staff to the Judicial Council, Criminal Justice Services recommends that the Judicial Council:

1. Receive the attached *Report on the California Community Corrections Performance Incentives Act of 2009: Findings From the SB 678 Program* (2015) documenting findings, implementation activities, and potential recommendations related to the California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678); and

2. Direct the Administrative Director to submit this report to the California Legislature and Governor by August 1, 2015, to comply with Penal Code section 1232, which requires the Judicial Council, in consultation with the California Department of Corrections and Rehabilitation, the California Department of Finance, and the Chief Probation Officers of California, to submit to the Governor and the Legislature annually a comprehensive report on the implementation of the SB 678 program, including information on the effectiveness of the program and policy recommendations regarding resource allocation for improvements to the SB 678 program.

Previous Council Action

The California Community Corrections Performance Incentives Act (SB 678) was enacted in 2009. Although the Judicial Council took no formal position on the bill, the council supported the bill in concept and staff with the Judicial Council's Governmental Affairs office collaborated with the Legislature to ensure the feasibility of meeting the Judicial Council's responsibilities under the bill.

On April 26, 2013, the Judicial Council received the *Report on the California Community Corrections Performance Incentives Act of 2009: Findings From the SB 678 Program* (2013) and directed the Administrative Director to submit this report to the California Legislature and Governor, as mandated by Penal Code section 1232. The report was submitted on April 30, 2013.

On June 26, 2014, the Judicial Council received the *Report on the California Community Corrections Performance Incentives Act of 2009: Findings From the SB 678 Program* (2014) and directed the Administrative Director to submit this report to the California Legislature and Governor, as mandated by Penal Code section 1232. The report was submitted on July 1, 2014.There is no other relevant prior action by the Judicial Council to report.

Rationale for Recommendation

Senate Bill 678 was enacted in 2009 and is designed to alleviate state prison overcrowding and save state General Fund monies by reducing the number of adult felony probationers who are sent to state prison for committing new crimes or violating probation, and to meet these objectives without compromising public safety. The SB 678 program allocates a portion of savings from lower incarceration costs to local probation departments that reduce rates of

probation revocations to state prison (and, since public safety realignment in 2011, to county jails), and requires departments to use the additional funding for implementation of evidence-based supervision practices (EBPs).

Under SB 678, the Judicial Council is required to collaborate with the California Department of Corrections and Rehabilitation (CDCR), the Chief Probation Officers of California (CPOC), and the Department of Finance (DOF) to collect data on probation revocations, monitor the implementation and outcomes of the SB 678 program, and calculate the appropriate level of performance-based funding for each probation department. (Pen. Code, §§ 1231–1233.6.)

The Judicial Council is also required to submit a comprehensive report to the Legislature and Governor on the implementation of SB 678, including information on the effectiveness of the SB 678 program and specific recommendations regarding resource allocations and additional collaboration. (Pen. Code, § 1232.)

The *Report on the California Community Corrections Performance Incentives Act of 2009: Findings From the SB 678 Program* (2015) summarizes the SB 678 program and the Judicial Council's role in the collection, monitoring, and reporting of program outcome and implementation data. The report also summarizes program results, including a decline in the probation failure rate from the baseline years and an increase in the use of evidence-based practices by probation departments since program inception, and concludes with specific recommendations designed to improve future implementation of the SB 678 program.

Report findings

The SB 678 program and its performance-based funding mechanism has created significant savings by lowering the number of offenders county probation departments and courts have sent to state prison over the past four years, and to county jail after the passage of the 2011 Public Safety Realignment Act.[1] The state's overall probation failure rate dropped from the 2006–2008[2] baseline rate of 7.9% to 5.6% in 2014, a 29% reduction from the baseline period. The reduction in the number of probationers sent to state prison has resulted in statewide savings of approximately $970.6 million over five years.

Using SB 678's performance-based funding formula, funding allocations to county probation departments were initially calculated based on savings to the state resulting from reductions in felony probationer prison commitments. The state shared funds with probation departments for those reductions in the state prison population that could be attributed to the counties' diversion of probationers who would have gone to state prison. For the first year of the SB 678 program (2010), $88.6 million was distributed to the counties in FY 2011–2012 to reinvest in the use of

[1] 2011 realignment legislation addressing public safety, also known as the 2011 Public Safety Realignment Act (AB 109; Stats. 2011, ch. 15 and AB 117; Stats. 2011, ch. 39).
[2] The baseline probation failure rate (PFR) is a weighted average of the PFR in 2006, 2007, and 2008.

EBPs by local probation departments; $138.3 million was distributed to the departments in FY 2012–2013.

Following the 2011 public safety realignment, hundreds of felony offenses previously punishable by a term in state prison may now only be punished by the same term in county jail.[3] As a result of realignment, approximately half (47–48%) of all felony probationers who were revoked or committed new crimes in 2012 and 2013 served their time in county jail as opposed to state prison. Given this effect of realignment, beginning in FY 2013–2014 the state adjusted the formula for calculating savings to take into account the avoided incarceration costs for prevented felony probation failures to both prison and jail. In FY 2013–2014, using the revised funding formula, $101 million was distributed to probation departments (for 2012 savings); $124.8 million was distributed to probation departments in FY 2014–2015 (for 2013 savings).

The 2015–2016 State Budget modifies the SB 678 funding formula to include all forms of local felony supervision (adult probation, mandatory supervision, and postrelease community supervision), and refocuses the grant on local supervision admissions to prison; using this methodology, $125.8 million will be distributed in FY 2015–2016.

A fundamental component of SB 678 is the implementation of EBPs by county probation departments. Penal Code section 1229(d) defines EBPs as "supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under local supervision." The state's interest in EBP implementation was reinforced by the Legislature when it enacted the 2011 Public Safety Realignment Act and expressly encouraged counties to expand the use of EBPs to improve public safety outcomes and facilitate the reintegration of adult felons into society. Since the first report in 2010, all counties have reported expanded use of some EBP elements under the SB 678 program, including application of actuarial risk and needs assessments, increased collaboration among local justice system partners, more effective supervision of offenders, more effective use of treatment programs for offenders, and enhanced management practices.

At the same time that county probation departments effectively reduced the number of probationers sentenced to prison and expanded their implementation of evidence-based supervision practices, California's crime rates remained below the 2008 baseline. After increasing slightly in 2012, California's crime rates are once again declining. Between 2012 and 2013, California's violent crime rate decreased 6.5% and the property crime rate decreased by 3.9%.[4] The state's 2013 crime rates remained lower than the rates from the 2008 SB 678 baseline period (21% lower for violent crime; 11% lower for property crime).[5]

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[3] Pen. Code, § 1170(h).
[4] California Department of Justice, Division of California Justice Information Services, Bureau of Criminal Information and Analysis Criminal Justice Statistics Center, *Crime in California, 2013,* http://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/candd/cd13/cd13.pdf?.
[5] *Ibid.*

An analysis of preliminary FBI crime data that includes the first six months 2014 also suggests that the increase in the California's crime rate reported in 2012[6] is not part of an ongoing trend, and may continue to decline.[7] In the first six months of 2014, the property crime rate decreased from 2013 by approximately 7.2%, and the violent crime rate decreased by 3.1%.

The effectiveness of probation departments in continuing to decrease the state's incarceration costs while maintaining a lowered crime rate demonstrates that the counties' implementation of SB 678's careful design is meeting the legislation's objectives. The SB 678 program was originally scheduled to sunset on January 1, 2015. However, the program's accomplishments provided a solid basis for the Legislature to extend the program in 2013.[8] With secure funding for the future, the SB 678 program has the potential to more fully achieve the Legislature's goals, including the expansion of the use of evidence-based practices.

Comments, Alternatives Considered, and Policy Implications

This legislatively mandated report focuses on presenting program data related to probation outcomes and the implementation of evidence-based supervision practices; as such, it was not considered suitable for public comment. However, pursuant to Penal Code section 1232, feedback was solicited and incorporated from justice system partners critical to SB 678's implementation, including the CDCR, the DOF, and the Chief Probation Officers of California.

Pursuant to Penal Code section 1232, the report includes a number of recommendations for the Governor and Legislature to consider for improvements under the act. They are summarized below.

Provide sufficient incentives for effective program implementation

To continue to incentivize effective supervision practices, the Legislature should maintain compensation to probation departments in recognition of the improvements made since the SB 678 program was initiated and that have continued even as public safety realignment has significantly impacted the criminal justice system and placed extra responsibilities on county probation departments. Providing probation departments with sufficient financial resources is critical to maintaining effective supervision practices; inadequate incentives may result in departments returning to the less expensive practices that were in place before the SB 678 program was initiated, and in attempts to shift serious offenders to state prison to preserve as many local resources as possible.

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[6] Federal Bureau of Investigation, Preliminary Semiannual Uniform Crime Report (January–June 2013), retrieved from *www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/preliminary-semiannual-uniform-crime-report-january-june-2013/preliminary-semiannual-uniform-crime-report-january-june-2013*.

[7] Federal Bureau of Investigation, Preliminary Semiannual Uniform Crime Report (January–June 2014), retrieved from *www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2014/preliminary-semiannual-uniform-crime-report-january-june-2014/preliminary-semiannual-uniform-crime-report-january-june-2014*.

[8] SB 75 (Stats. 2013, ch. 31).

Study offender recidivism

Starting in 2011, the SB 678 program began to collect aggregate data on crimes committed by felony probationers; this is valuable data that probation departments should be required to continue to collect. Because insufficient research using individual-level data to study offender recidivism has been conducted, the Legislature should consider requiring a more robust study of crime committed by felony probationers to fully understand the effectiveness of the SB 678 program and its effect on California's crime rate.

Study Impact of Prop. 47 on Probation Department Practices and the SB 678 Program

As outlined earlier, Prop. 47 has resulted in a reduced felony probation population because of fewer felony probation grants and the resentencing of felony cases to misdemeanors. The Legislature should consider requiring a study of the impact of Prop. 47 on probation departments, particularly changes in caseload and possible changes in practices and policies as a result of shifting caseloads. The impact of Prop. 47 on prison return rates and implementation and use of evidence-based practices should also be explored.

Continue to emphasize implementation of evidence-based practices

Although county probation departments have expanded the use of evidence-based practices, all departments should continue to make improvements in their EBP implementation. Many departments, however, will need to strengthen their infrastructures in order to improve EBP implementation, and additional resources will be required to make that possible. To improve the effectiveness of the program, probation departments should enhance the use of EBPs in specific areas noted in the Annual Assessment, including (1) providing additional staff training on the overall effectiveness of specific aspects of EBPs, including the use of awards and sanctions response grids; (2) using contracts to require and to verify that existing treatment and other programs qualify as EBPs, including those that the counties require their probation departments to use for treatment of local offenders; and (3) continued evaluation of the program as is required by statute.

Encourage counties to implement local performance-incentive funding

Given the effectiveness of the SB 678 program, the state should encourage counties to implement local performance-incentive funding programs. Just as SB 678 directly impacted the state prison population, a local performance incentive program could reduce the number of offenders who serve time in county jail. The state has an interest in promoting effective supervision at the local level because local incarceration costs are also significant. The state could encourage counties to develop these local programs through matching funds or by requiring that specified realignment funds be provided to county probation departments to reduce the number of supervised offenders who are revoked to county jail.

Implementation Requirements, Costs, and Operational Impacts

The Legislature directed the Judicial Council to work with CPOC, CDCR, and the DOF to ensure that the SB 678 program is effectively implemented and program progress is well documented.

The Judicial Council has received funding ($615,000 in FY 2010–2011 and FY 2011–2012, $1 million in FY 2013–2014, FY 2014–2015, and in FY 2015–2016) from the executive branch to support the work on this program (and the Judicial Council's work on realignment commencing in FY 2012–2013) and to develop the summary reports.

Although county probation departments were responsible for the majority of program activities, the Judicial Council played a significant role in data collection and validation, program assessment and outcome measurement, and the provision of subject matter expertise to the Legislature and Department of Finance as requested. The following data collection and evaluation tasks have been conducted in support of program implementation:

- *Quarterly data collected from probation departments.* Quantitative outcome-focused data have been collected quarterly from county probation departments. The Judicial Council constructed the data collection systems and developed standard data definitions and performed data quality control and validation checks. Quarterly data reports are used by the Department of Finance to determine SB 678 funding allocations.

- *Annual assessment of evidence-based practice implementation.* The Judicial Council surveys all of California's probation departments annually to collect information on program implementation and funding priorities.

- *Provision of technical assistance.* Over the course of the SB 678 program, the Judicial Council has provided technical assistance in data quality assurance to probation departments through site visits, multicounty conference calls, and contacts with individual counties. This work has been undertaken in order to better understand county probation department data systems, ensure data validation, and gather qualitative information on program implementation and impact.

Relevant Strategic Plan Goals and Operational Plan Objectives

The California Community Corrections Performance Incentives Act focuses largely on incentivizing changes to probation department supervision practices; however, several judicial branch strategic goals and operational objectives are supported by the work of the SB 678 program and the submission of this report documenting program outcomes and implementation activities to the state Legislature.

- *Goal I: Access, Fairness, and Diversity. Objective 1. Ensure that all court users are treated with dignity, respect, and concern for their rights and cultural backgrounds, without bias or appearance of bias, and are given an opportunity to be heard.* Implementing and supporting the use of evidence-based probation supervision practices statewide decreases the perception of bias in dealing with probation violators. The standard application of evidence-based responses to probation violations ensures that violators are treated fairly and responses are appropriate based on the offense.

- *Goal II: Independence and Accountability. Objective 3. Improve communication within the judicial branch, with other branches of government, with members of the bar, and with the public to achieve better understanding of statewide issues that impact the delivery of justice.* The SB 678 program involves a significant amount of collaboration and coordination between all three branches of state government as well as local government agencies. Judicial Council staff have been in regular communication with justice partners throughout the program and in the development of the attached summary report, and will continue to participate in collaborative efforts with all justice system partners for the duration of the program.

- *Goal IV: Quality of Justice and Service to the Public. Objective 1. Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.* Evidence-based probation supervision practices are, by definition, practices that have been proven to improve outcomes, including reduced recidivism, for probationers. Judicial support for these practices should increase public confidence and perceptions of fairness within the court system.

Attachments and Links

1. *Report on the California Community Corrections Performance Incentives Act of 2009: Findings From the SB 678 Program* (2015)

JUDICIAL COUNCIL OF CALIFORNIA

Hon. Tani G. Cantil-Sakauye
Chief Justice of California and
Chair of the Judicial Council

Martin Hoshino
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OPERATIONS AND PROGRAMS DIVISION

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Acknowledgments

Pursuant to Penal Code section 1232, this report was written in consultation with the California Department of Corrections and Rehabilitation, the California Department of Finance, and the Chief Probation Officers of California.

We would like to thank the following for providing information, insight, feedback, and support:

Judge J. Richard Couzens (Ret.), Superior Court of California, County of Placer; the Chief Probation Officers of California; the California Department of Finance; and the California Department of Corrections and Rehabilitation. We would like to acknowledge staff in the Judicial Council's Criminal Justice Services office whose work contributed to the SB 678 program and report: Tara Agnese, Francine Byrne, Jay Fraser, Eve Hershcopf, Arley Lindberg, and Barbara Whiteoak.

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Executive Summary

When originally passed, the California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678) was designed to alleviate state prison overcrowding and save state General Fund monies by reducing the number of adult felony probationers who are sent to state prison for committing a new crime or violating the terms of probation, and to meet these objectives without compromising public safety. The SB 678 program shares state savings from lower prison costs with county probation departments that implement evidence-based supervision practices and achieve a reduction in the number of locally supervised felony offenders who are revoked to state prison.

The SB 678 program and its performance-based funding mechanism created significant state savings by lowering the number of supervised offenders sent to state prison over the past five years. The original baseline failure rate dropped from 7.9% in the baseline years of 2006–2008 to 5.6% in 2014. This resulted in statewide savings of approximately $970.6 million over five years with 60%, or $577.8 million, allocated to county probation departments for their continued efforts to effectively supervise individuals under local supervision.

The enactment of the 2011 Public Safety Realignment Act greatly reduced the number of felony offenses that are punishable by state prison sentences, and in order to continue to incentivize effective supervision practices, in 2013 the Legislature modified SB 678 to include probationers returning to county jail. In June 2015, the Legislature passed and the Governor signed SB 85, which changes the probation failure rate to include the total prison returns for all individuals under felony supervision by the county probation departments (probation, mandatory supervision and postrelease community supervision) and eliminates funding for jail avoidance.

A fundamental component of SB 678 is the implementation of evidence-based practices (EBPs) by county probation departments. SB 678 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." While no probation department in the state has fully implemented evidence-based practices in all facets of supervision, all counties report expanded use of some EBP elements, including application of actuarial risk and needs assessments, increased collaboration among local justice system partners, more effective supervision of offenders, more effective treatment programs for offenders, and more effective management practices.

While the number of probationers revoked has decreased since the SB 678 program's inception and probation departments have expanded their implementation of evidence-based supervision practices, California's crime rates remain below the 2008 baseline levels, indicating that public safety has not been negatively affected by the SB 678 program. Given these positive outcomes, the state and the counties have an interest in sustaining and expanding upon the effectiveness of the SB 678 program.

The recent enactment of Proposition 47, the Safe Neighborhoods and Schools Act, by California voters in November 2014 will also affect SB 678. Although it is too soon to understand the full impact of Proposition 47 on the program, there has been an observable and immediate drop in the supervised felony population since the initiative passed; there may also be an effect on the type of offenders supervised by probation. The Judicial Council's Criminal Justice Services office is currently gathering data to assess how Proposition 47 may impact community supervision in the coming years, and whether the immediate drop in the supervised felony population continues.

With adequate resources, probation departments will be able to continue using evidence-based practices developed through the SB 678 program to save state funds by reducing the number of felony offenders who are reincarcerated. The effectiveness of probation departments in continuing to lower incarceration costs and increase their use of evidence-based practices demonstrates that the counties' ongoing efforts to implement SB 678's careful design are meeting the legislation's objectives. With secure funding for the future, the SB 678 program has the potential to more fully achieve the Legislature's goals.

Introduction

The California Community Corrections Performance Incentives Act of 2009[1] (implementation of which is hereafter referred to as the "SB 678 program") was designed to alleviate state prison overcrowding and save state General Fund monies by reducing the number of adult felony probationers sent to state prison for committing a new crime or violating the terms of their county-supervised probation, and to meet these objectives without compromising public safety. The SB 678 program allocates a portion of reduced incarceration costs to county probation departments to support the use of evidence-based supervision practices and achieve a reduction in the number of supervised felony offenders who are revoked to state prison.

The Judicial Council has been charged by the Legislature to annually report on the implementation and outcomes of the SB 678 program.

This report:

- Presents a brief background on the SB 678 program, and documents changes made to the program as a result of public safety realignment and the enactment of Proposition 47;
- Provides results from the first five years of the program, including the impact of the SB 678 program on probation failure rates and public safety, the amount of state savings from the reduction in probation failures, and funding allocations to the counties; and
- Provides information on county probation departments' reported use of funds and implementation of evidence-based practices.

[1] SB 678 (Stats. 2009, ch. 608), *www.courts.ca.gov/documents/sb678.pdf*.

I. SB 678 Background

A. Legislative Enactment of SB 678

The Legislature enacted the California Community Corrections Performance Incentives Act of 2009 (SB 678) with bipartisan support.[2] This legislation created an incentive program designed to improve public safety, alleviate state prison overcrowding, and save state General Fund monies by supporting effective probation practices and reducing the number of adult felony probationers sent to state prison for committing a new crime or violating the terms of probation.

Courts have authority to order defendants to be placed on probation (a judicially imposed suspension of sentence and a form of community supervision) in lieu of a long-term jail or prison sentence.[3] The typical adult felony probation term is for a period of three to five years. If an offender successfully completes probation without a violation or a new charge, the probationer will not be required to serve any further custody time in jail or prison. If the probationer violates the conditions of probation or commits a new offense, probation may be "revoked" and the offender sent to state prison or county jail, resulting in incarceration costs to the state or county.

Each of California's 58 counties administers its own adult felony probation system.[4] Historically, the probation departments' inability to significantly reduce offender recidivism and revocations had been a major contributor to California's incarceration costs.[5] In a 2009 report, the Legislative Analyst's Office (LAO) estimated that 40% of new prison admissions from the courts were due to probation revocations.[6] The report also acknowledged that, in the preceding years, many county probation departments had insufficient resources to implement evidence-based probation supervision practices[7] that could help reduce probation failures. The LAO recommended creation of a program to provide counties with a financial incentive to improve their community corrections practices and lower their probation failure rates.

The SB 678 program established a performance-based funding system for county probation departments that shares state savings from lower prison costs with probation departments that implement evidence-based supervision practices and achieve a reduction in the number of felony probationer commitments to state prison. Following California's 2011 Public Safety

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[2] *Ibid.*

[3] Pen. Code, § 1228(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."

[4] Probation differs from parole, which is a form of supervision that takes place upon release from prison for specified offenders and is administered by the California Department of Corrections and Rehabilitation (CDCR).

[5] Legislative Analyst's Office, *Achieving Better Outcomes for Adult Probation* (May 2009), http://www.lao.ca.gov/2009/crim/Probation/probation_052909.pdf.

[6] *Ibid.*

[7] Evidence-based practices are defined as "supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under local supervision." (Pen. Code, § 1229(d).)

Realignment Act[8] (discussed in section D, below), legislation enacted in 2013 expanded the SB 678 program to include reductions in felony probationer commitments to county jail.[9] The 2015–2016 State Budget further changes the program to include incentive-based funding for all types of local felony supervision (mandatory supervision and postrelease community supervision populations) and omits incentive funding for commitments to county jail. Critical to the effectiveness of the SB 678 program is the requirement for county probation departments to reinvest their share of the savings in enhanced implementation of evidence-based probation programs and practices.[10]

B. The SB 678 Framework

Implementation of the SB 678 program began in FY 2009–2010 when the Legislature appropriated $45 million in federal American Recovery and Reinvestment Act stimulus funds[11] as seed money for county probation departments to begin expanding the use of evidence-based practices with adult felony probationers. After the first year of the program, the SB 678 state funding mechanism was activated, although the precise formula has been modified each year.

Funding Methodology: FY 2010–2011 to FY 2012–2013

The SB 678 funding formula emphasizes county performance.[12] As originally designed, probation departments received a portion of the state's savings in incarceration costs[13] resulting from reduction in the probation failure rate (PFR). The PFR was initially defined in statute as the number of adult felony probationers revoked to state prison in a year as a percentage of the average probation population during the same year.

The amount of savings the state shared with probation departments each year was determined by each county's improvement in their PFR, as compared to their 2006–2008 baseline rate[14] (see

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[8] 2011 realignment legislation addressing public safety, also known as the 2011 Public Safety Realignment Act (AB 109; Stats. 2011, ch. 15 and AB 117; Stats. 2011, ch. 39).

[9] SB 75 (Stats. 2013, ch. 31), http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB75&search_keywords

[10] "Funds allocated to probation pursuant to this act shall be used to provide supervision and rehabilitative services for adult felony offenders subject to local supervision, and shall be spent on evidence-based community corrections practices and programs… ." (Pen. Code, § 1230(b)(3).)

[11] This was based on a one-time expansion of the Edward Byrne Memorial Justice Assistance Grant Program.

[12] Pen. Code, § 1233.1(d).

[13] *Id.*, § 1233.1(a).

[14] The baseline probation failure rate is a weighted average of the PFR in 2006, 2007, and 2008. 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 Judicial Council, calculates for that calendar year an estimate of the number of adult felony probationers each county successfully prevented from being sent to prison (or to jail, following realignment) based on the reduction in the county's probation failure rate. In making this estimate, DOF is required to adjust the calculations to account for changes in each county's adult felony probation caseload in the most recently completed calendar year as compared to the county's adult felony probation population during the baseline period. (Pen. Code, §§ 1233.1(c),(d).)

Appendix A). A county that returned fewer individuals to prison than would be expected (compared to their baseline rate) received a share of the state savings from reduced incarceration costs. Depending on how a county's PFR compared to the statewide average, a county received either 40% or 45% of the state savings. The amount varied depending on the individual probation department's level of success as calculated by comparing the county's PFR (measured by felony probationer returns to state prison) with the state's average PFR. Counties that were unsuccessful in reducing their PFR were also provided with a small amount of funding to bolster their efforts to implement evidence-based practices and reduce recidivism. The SB 678 program included a provision for high performance awards to counties with very low probation failure rates. These awards supported the ongoing use of evidence-based practices in counties with probation failure rates more than 50% below the statewide average.[15]

Funding Methodology Post-Realignment: FY 2013-2014 and FY 2014-2015

The SB 678 program and its funding formula were affected by California's 2011 Public Safety Realignment Act[16] (discussed in section D, below). Following realignment, a substantial number of felony probationers are no longer eligible for incarceration in state prison when they violate conditions of probation or commit a new offense and instead may be revoked and sentenced to county jail. Following this realignment-driven change, the funding formulas for FY 2013–2014 and FY 2014–2015 (which shared savings for counties' performance in calendar year 2012 and 2013, respectively) were revised. The PFR used in the revised formula continued to include adult felony probationers who were revoked to state prison, but was amended to also include revocations to county jail.[17] The PFR for these years is calculated using the combined revocations to jail and prison as a percentage of the average statewide adult felony probation population for that year.

Funding Methodology: Changes for FY 2015–2016

The 2015–2016 State Budget updates the SB 678 funding formula to include all types of local felony supervision (adult probation, mandatory supervision, and postrelease community supervision), and refocuses the grant on local supervision admissions to prison.

The formula now measures each county's performance against statewide failure rates. If a county's return to prison rate (RPR) is less than or equal to the original statewide baseline of 7.9%, the county will receive a percentage of its highest SB 678 payment from the period between program inception and FY 2014–2015. Depending on how a county's RPR compares to

[15] For FY 2010-2011 to FY 2014-2015, these awards were funded with 5% of the overall savings to the state. A county could receive an award based on state incarceration cost savings or a high performance grant payment but not both; the county could choose which award to receive in a year when it qualified for both. (Pen. Code, § 1233.4(e).)
[16] 2011 realignment legislation addressing public safety, also known as the 2011 Public Safety Realignment Act (AB 109; Stats. 2011, ch. 15 and AB 117; Stats. 2011, ch. 39).
[17] Pen. Code, § 1233.1(b)(2).These felony probationers were revoked to county jail pursuant to Penal Code section 1170(h)(5).

statewide RPRs, a county can receive between 40 and 100% of its highest payment. A second funding component continues to allocate a percentage of funds based upon how each county performs in comparison to their PFR in the previous year. Specific details of these changes are outlined in Appendix C.

C. SB 678 Monitoring and Reporting

SB 678 requires county probation departments to report on their implementation of evidence-based practices and probationer outcomes to enable the Legislature to monitor whether each program is having its intended effect.[18] The Judicial Council collects quarterly statewide outcome data reported by the counties and works with the California Department of Corrections and Rehabilitation (CDCR) and the Chief Probation Officers of California (CPOC) to ensure the accuracy and reliability of this data.[19] Since the start of the SB 678 program, the Judicial Council has provided technical assistance in data quality assurance to probation departments through site visits, multicounty conference calls, and contacts with individual counties.[20]

The Judicial Council's data collection methods obtain the most critical data, balancing county resource constraints with the Legislature's interest in program evaluation based on accurate and detailed information, as mandated by statute. Data reported by county probation departments focus on quantitative outcomes, including the number of felony offenders placed on probation, the number revoked to prison or jail, and the number convicted of a new felony offense during the reporting period (see Appendix B). The Judicial Council reports program data to the Department of Finance (DOF), which uses it to determine the appropriate annual level of performance-based funding for each county probation department.[21]

In addition to collecting quarterly outcome-focused data, the Judicial Council developed an annual survey, *Implementation of Evidence-Based Practices: Annual Assessment Survey* (Annual Assessment), to gather information on probation departments' implementation of evidence-based practices (EBPs) and assist them in fulfilling the legislative mandate for evaluation of the effectiveness of the SB 678 program.[22] The Annual Assessment focuses on five critical evidence-based practices: (1) use of validated risk and needs assessments; (2) effective probationer supervision practices, including training on EBPs; (3) effective treatment and targeted intervention; (4) effective management practices; and (5) collaboration among justice

[18] Pen. Code, § 1231(a): "Community corrections programs funded pursuant to this chapter shall identify and track specific outcome-based measures consistent with the goals of this act." *Id.*, § 1231(c): "Each CPO receiving funding pursuant to Sections 1233 to 1233.6, inclusive, shall provide an annual written report to the Judicial Council, evaluating the effectiveness of the community corrections program, including, but not limited to, the data described in subdivision (b)."
[19] *Id.*, § 1231(b).
[20] The Judicial Council's Criminal Justice Services office has developed uniform data definitions, created and administered surveys, checked data submissions, matched revocation records submitted by probation departments with CDCR records, and investigated record inconsistencies.
[21] Pen. Code, §§ 1231(d), 1233.
[22] *Id.*, §§ 1231(c), 1232.

system partners. [23] The survey is designed to measure probation departments' reported EBP implementation changes over time and to identify program spending priorities.

D. California's 2011 Public Safety Realignment Act and the Impact on the SB 678 Program

Two years after the SB 678 program went into effect, the California Legislature enacted the 2011 Public Safety Realignment Act, [24] the most far-reaching transformation of California's criminal justice system in more than 30 years. Realignment has had an impact on the SB 678 program by significantly reducing the number of probationers who are *eligible* for incarceration in state prison when they fail on probation, and instead are revoked to county jail. Public safety realignment also created new categories of offenders who are supervised by probation departments and similarly limited these offenders' eligibility for incarceration in state prison when they fail on supervision.

Prior to the enactment of the realignment legislation, a person convicted of a felony and denied probation was generally sentenced to state prison. After realignment, however, with the exception of serious or violent felony offenses, and for felony offenders with serious or violent criminal histories, the general rule is that the court must commit these persons to county jail.

Due to this change in the sentencing structure, offenders granted felony probation for section 1170(h) offenses and who violate probation or commit a new 1170(h) offense may only be revoked to county jail rather than state prison. Approximately half of all revoked probationers now serve their time in county jail instead of state prison, which significantly reduces the amount of direct state savings related to the SB 678 program. The SB 678 program continues to reduce state prison costs through enhanced supervision of those probationers who remain eligible to be incarcerated in state prison if probation is revoked. The program also provides savings for counties (and, potentially, for the state) by reducing the number of revoked offenders who would serve their terms in county jail, though there are no direct state savings associated with lowering the probation failure rate (PFR) for offenders who are not eligible for revocation to state prison.

In addition to the immediate impact of realignment legislation on the SB 678 program, significant additional ongoing responsibilities have been placed on probation departments, including supervision of two new populations of offenders: (1) offenders released from state prison on a new form of supervision, called postrelease community supervision (PRCS); and (2) offenders placed on mandatory supervision under Penal Code section 1170(h)(5).

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[23] The importance of each of these areas has been supported in a number of reports; see, for example, Crime and Justice Institute at Community Resources for Justice, *Implementing Evidence-Based Policy and Practice in Community Corrections,* 2nd ed. (Washington, D.C.: National Institute of Corrections, Oct. 2009) available at http://www.crj.org/cji/entry/publication_integratedmodel.

[24] 2011 realignment legislation addressing public safety, also known as the 2011 Public Safety Realignment Act (AB 109; Stats. 2011, ch. 15 and AB 117; Stats. 2011, ch. 39).

After realignment legislation passed, the Judicial Council began collecting additional data on felony probation revocations to account for realignment's impact on revocation practices. The data include the number of felony probationers who would have been sent to state prison for a revocation of probation or for a conviction of a new felony offense prior to realignment but who are now revoked to county jail when they fail on probation.[25]

E. Proposition 47

On November 4, 2014, California voters enacted Proposition 47 (Prop. 47), the Safe Neighborhoods and Schools Act. The major components of Prop. 47 are (1) reducing possessory-level felony drug offenses and thefts of property valued under $950 that had previously been "wobblers" to straight misdemeanors; (2) creating a process for persons currently serving a qualified felony sentence for theft and drug offenses to petition the court for resentencing as a misdemeanor; (3) creating a process for persons who have completed qualified felony sentences to petition the court for reclassification of the crime as a misdemeanor; and (4) forming a Safe Neighborhoods and Schools Fund to receive the state savings achieved by the change in the sentencing laws.[26]

Of these components, (1) and (2) will likely have an impact on felony probation caseloads and, as a result, on the SB 678 program. Beginning with Quarter 4, 2014 (October 1 to December 31) the Judicial Council began asking probation departments to report two additional data points related to Prop. 47.[27] Preliminary data indicate that statewide, over 5,000 Prop. 47 terminations from felony supervision occurred in the fourth quarter of 2014, and that the overall population of felony probationers decreased by nearly 3% in that time frame. This compares to an increase of 0.25% for the same time period in 2013. The number of new felony probation grants was reduced by nearly 29% in the fourth quarter of 2014. (See figure 1.) This reported decrease was not experienced by every jurisdiction however; some counties have seen an increase in their felony probation population during the same time frame.

More time and data will be needed to evaluate the long-term impact that Prop.47 will have on supervised populations. In addition to affecting the size of the felony probation population, and therefore potentially having an impact on the probation failure rate,[28] Prop. 47 may also lead

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[25] Pen. Code, § 1231(d)(8) and (9).

[26] www.voterguide.sos.ca.gov/en/propositions/47/analysis.htm

[27] The two additional quarterly data points are:

Prop 47 Terminations: Count of all supervised individuals who have been resentenced under Prop 47 during the quarter, and as a result of the resentencing, have been completely terminated from all forms of felony supervision.
Individuals should be counted only if they are no longer under any form of felony supervision by the probation department.

Prop 47 Reductions: Count of all supervised individuals who have been resentenced under Prop 47 during the quarter, but remain on misdemeanor supervision by the probation department.
This item should be a subset of item 19.

[28] Because PFR is calculated as the number of probation failures as a proportion of the overall probation population, significant reductions in the population could result in increases in the *rate* of probation failures.

local probation departments to adapt practices to accommodate changes resulting from implementation of the new regime. If the lower felony probation populations prove to be sustainable, this provides an opportunity for probation departments to implement or maintain lower caseload ratios, an important aspect of EBP. Anecdotal information suggests that probation departments are expanding their misdemeanor probation caseloads and are considering modifications to supervision policies to respond more directly to probationers' risk of reoffending rather than making a distinction between misdemeanor and felony supervision practices. Although the immediate effect of Prop. 47 on the SB 678 program remains unclear, Judicial Council staff will continue to gather information from the county probation departments on the changes that result from the initiative and the probation departments' responses.

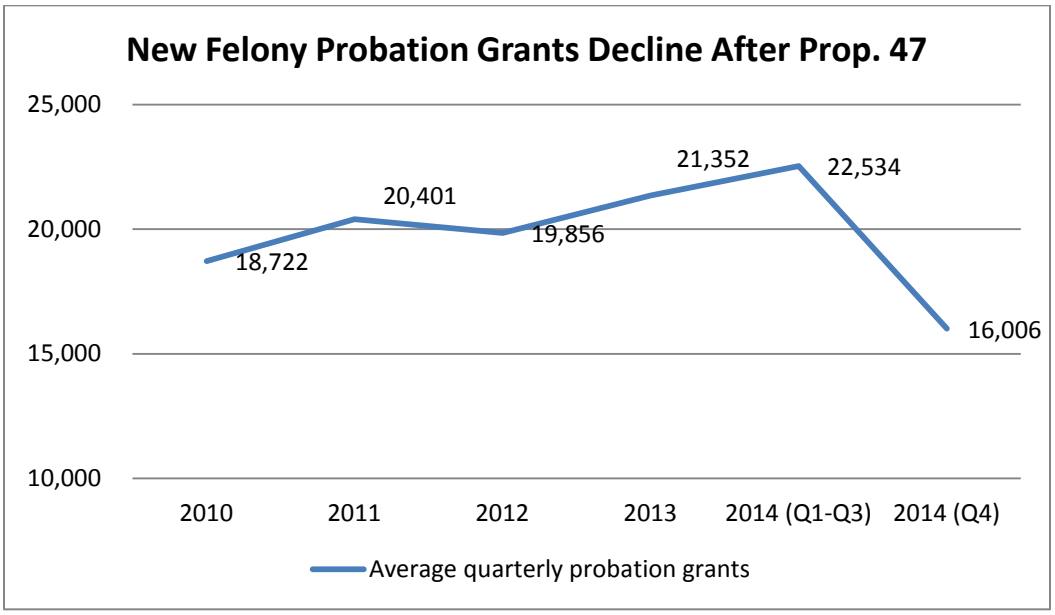

Figure 1. New felony probation grants data reported by probation departments to the Judicial Council.

II. Program Results

The analysis of SB 678's effectiveness is guided by the Legislature's stated intent[29] and summarized in three overarching questions:

A. How did the SB 678 program impact the probation failure rate, and what was the effect on public safety?
B. Did the state save money due to reductions in probationers sent to state prison, and was a portion of these savings directed to county probation departments to implement evidence-based practices?
C. Did county probation departments implement evidence-based practices and how did these practices impact probationer outcomes?

A. SB 678 Program Impact on Probation Failure Rate and Public Safety Outcomes

Probation Failure Rate for SB 678 Program: Analysis

The SB 678 program's effectiveness has been measured by comparing each calendar year's probation failure rates (PFR) to a baseline period before the program was implemented (a weighted average of the PFR in 2006, 2007, and 2008).[30] While the statewide PFR has varied from year to year, including an increase from 2012 to 2013, in each of the five years since the start of the SB 678 program the state's overall PFR has been lower than the baseline PFR rate of 7.9% (see figure 2).[31] In 2014, the PFR was 5.6%.

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[29] "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." Pen. Code, § 1228(d).

[30] The statewide probation failure-to-prison rate was initially calculated as the total number of adult felony probationers sent to prison in the year as a percentage of the average statewide adult felony probation population for that year. (Pen. Code, § 1233.1(b)(1).).In response to California's 2011 Public Safety Realignment Act (discussed in section I.D of this report), section 1233.1(b) was revised by SB 105 (Stats. 2013, ch. 310) to include subsection (b)(2): "The statewide probation failure rate *for the 2012 calendar year* shall be calculated as the total number of adult felony probationers statewide sent to prison, *or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170*, as a percentage of the average statewide adult felony probation population for that year." (Emphasis added.) Section 1233.1(b) was further amended by SB 105, operative July 1, 2014, to place this revised statewide probation failure rate formula in effect each year, beginning with the 2013 calendar year. Similarly, each county's probation failure-to-prison rate was initially 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 average adult felony probation population for that year. (Pen. Code, § 1233.1(c)(1).) In response to California's 2011 Public Safety Realignment Act, section 1233.1(c) was also revised by SB 105 (Stats. 2013, ch. 310) to include subsection (c)(2): "The probation failure rate for each county *for the 2012 calendar year* shall be calculated as the total number of adult felony probationers sent to prison, *or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170*, from that county as a percentage of the county's average adult felony probation population for that year." (Emphasis added.) Section 1233.1(c) was further amended by SB 105, operative July 1, 2014, to place this revised county probation failure rate formula in effect each year, beginning with the 2013 calendar year.

[31] Probation departments are allowed to revise previously submitted data. As a result of several resubmissions, the 2012 PFR referenced in prior documents may be different from what is reported here.

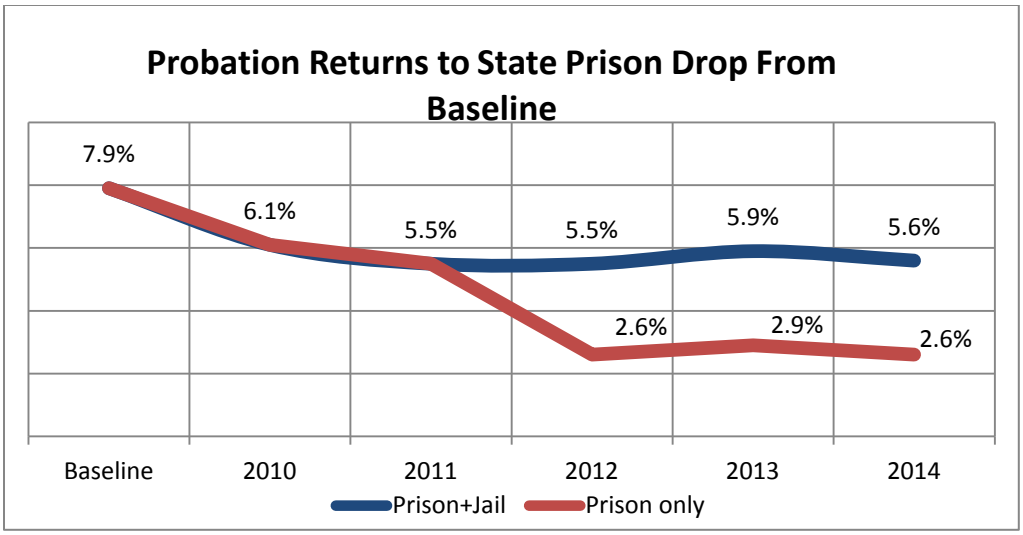

Figure 2. Probation revocation data reported by probation departments to the Judicial Council.

In order to determine whether probation departments statewide have reduced the number of felony probation failures, a calculation involving the baseline PFR was required. First, the baseline PFR of 7.9% was applied to the statewide probation population in each year of the program. This provided an estimate of the number of felony probationers that probation departments would have sent to prison (and to jail, post-realignment) if counties had continued using the same supervision practices as those in place during the baseline period (see figure 3, below). The dark bars in figure 3 show the *projected* number of revocations to state prison (and to county jails, post-realignment); that is, the number of revocations one would expect to see if there had been no change in probation supervision practices. The number of projected revocations (represented by the dark bars) was then compared to the actual number of felony probationers revoked to state prison each year under the SB 678 program (represented by the light bars) and revoked to prison and county jails, post-realignment (represented by the split bars). In each year of the program, the actual number of revoked felony probationers was lower than the projected number of revocations.

As reported by probation departments and indicated in table 1, below, in 2010, the first calendar year of SB 678 implementation, the probation failure rate declined to 6.1%, with 20,044 actual revocations—a reduction in the expected average daily prison population of 6,008 offenders. By 2014, the state's probation failure rate declined to approximately 5.6% with 6,911 fewer offenders than expected having their probation revoked.[32]

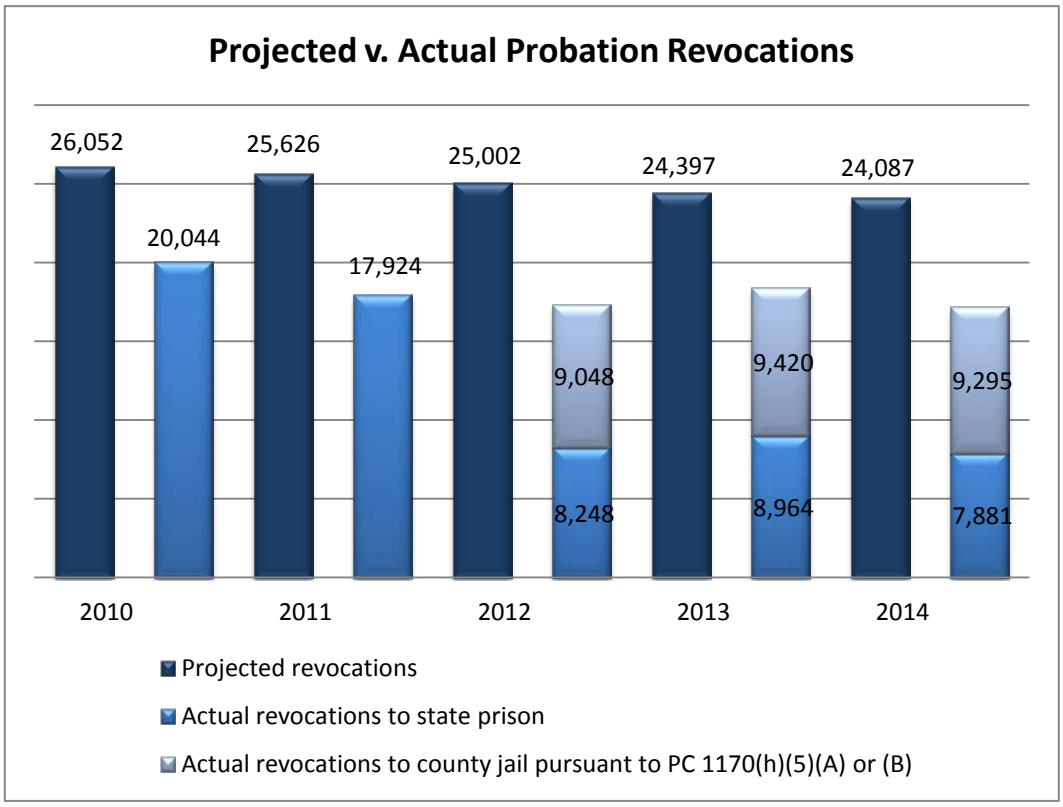

Figure 3. Probation revocation data reported by probation departments to the Judicial Council.

To take the impact of realignment into account, county jail and prison revocations were summed to calculate the total number of felony probation revocations post-realignment. In 2012, probation departments maintained their PFR at 5.5% and revoked approximately 7,706 fewer felony probationers to either state prison or county jail. Of the probationers who were revoked in 2012, 48% were revoked to state prison, 52% to county jail. In 2013, the statewide PFR increased to 5.9%. Even with this rise in the PFR, approximately 6,013 fewer felony probationers were revoked to state prison or county jail as compared to the number of projected revocations. Of those revoked in 2013, 49% were revoked to state prison and 51% to county jail. In 2014 the PFR declined to 5.6%, indicating that approximately 6,911 fewer probationers were revoked than expected in that year. Of those that were revoked approximately 46% were sent to state prison.

[32] The estimated reduction in the average daily prison population calculated by the Department of Finance each year is based on the average length of stay in prison, which fluctuates from year to year and may or may not equal 12 months.

Table 1: Felony Probation Revocation Rates: Prison Only and Jail Only			
	2012	**2013**	**2014**
Prison Only	2.6%	2.9%	2.6%
Jail Only	2.9%	3.0%	3.0%

Probation revocation data reported by probation departments to the Judicial Council.

It is important to note that the size of the adult felony probationer population has declined steadily since the baseline period. This population decline reduces the denominator used to calculate the probation failure rate and may result in higher PFRs even if the actual number of probationers revoked is reduced. For example, although the 2012 *rate* of probation failures is the same as the rate in 2011 (5.5%), the actual number of revocations to prison or jail avoided in 2012 is approximately 3.5% lower. As previously mentioned, it is anticipated that Prop. 47 will further impact the probation population, which may have an effect on the probation failure rate in the future.

Table 2: Summary of Probation Revocations Since Program Inception

	Baseline	**2010**	**2011**	**2012**	**2013**	**2014**
Probation Failure Rate (PFR)	**7.9%**	**6.1%**	**5.5%**	**5.5%**	**5.9%**	**5.6%**
Average daily felony probation population	331,617	329,767	324,382	316,478	308,622	305,515
Expected revocations (based on baseline PFR)	N/A	26,052	25,626	25,002	24,381	24,087
Actual revocations	N/A	20,044	17,924	17,296	18,687	17,176
% revocations sent to prison vs. jail (pursuant to PC 1170(h))	N/A	N/A	N/A	48%	47%	46%
Avoided revocations	N/A	6,008	7,702	7,706	5,694	6,911

Probationer revocation data reported by probation departments to the Judicial Council.

Moving forward, Senate Bill 85 (SB 85, Stats. 2015, Ch. 26) revised the PFR to combine all supervised felony offenders, and returns to prison only, creating a prison return rate rather than the probation failure rate used in previous years. This change in the SB 678 formula to include all population types will make comparisons to previous years invalid. The Judicial Council also began to collect additional data to determine the size of the mandatory supervision and PRCS populations and to assess whether there are differences in probation departments' supervision of these new populations as compared with traditional adult felony probationers.[33] Preliminary data

[33] Pen. Code, § 1231(d)(10–19).

for returns to prison for all supervision types are shown below. Although distinct trends cannot be established, return rates for felony probationers and individuals on mandatory supervision seem to be similar; individuals on postrelease community supervision are returned to prison at a much higher rate. It is unclear as to whether these observed differences may be more attributable to the policies and practices of supervising agencies, other local criminal justice system practices, or offender behavior.

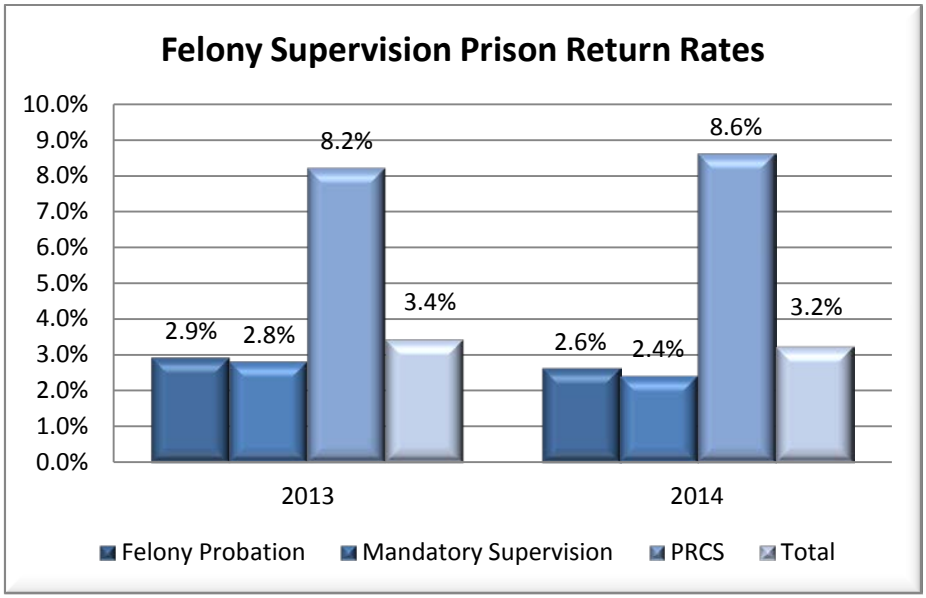

Figure 4. Probationer revocation data reported by probation departments to the Judicial Council.

Crime Rates in California, Realignment, and the SB 678 Program Impact on Public Safety

The sweeping changes to the criminal justice system that resulted from realignment and other recent criminal justice initiatives make it difficult to isolate and measure the SB 678 program's impact on public safety. Although it is not possible to make a definitive statement about whether and how the program has affected crime, it should be noted that in the five years since SB 678 was implemented crime rates in California have generally continued the downward trend of the past decade. Data from 2013 and preliminary data from the first six months of 2014 indicate that crime rates continue to drop.

After increasing slightly in 2012, California's crime rates are once again declining. Between 2012 and 2013, California's violent crime rate decreased 6.5% and the property crime rate decreased by 3.9%.[34] The state's 2013 crime rates remained lower than the rates from the 2008 SB 678 baseline period (21% lower for violent crime; 11% lower for property crime).[35]

[34] California Department of Justice, Division of California Justice Information Services, Bureau of Criminal Information and Analysis Criminal Justice Statistics Center, *Crime in California, 2013,* http://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/candd/cd13/cd13.pdf?.
[35] *Ibid.*

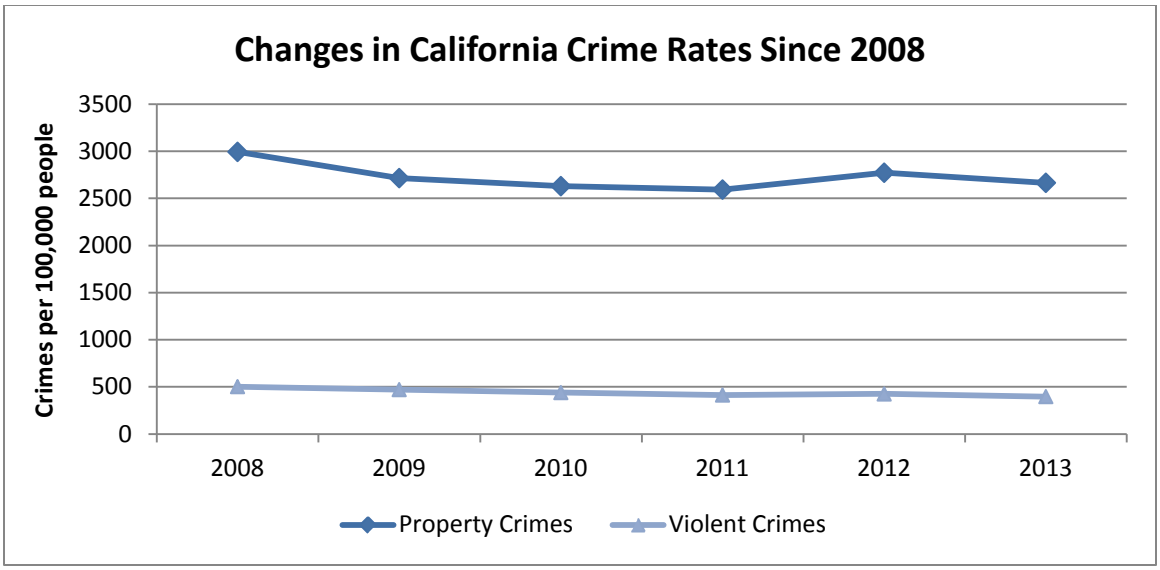

Figure 5. Property and violent crime data from the California Department of Justice, Office of the Attorney General, *Crime in California*, *2013* report.

An analysis of preliminary FBI crime data that includes the first six months of 2014 also suggests that the increase in California's crime rates reported in 2012 is not part of an ongoing trend, and may continue to decline. In the first six months of 2014, the property crime rate decreased from 2013 by approximately 7.2%, and the violent crime rate decreased by 3.1%; see table 3, below.

Table 3: Crimes per 100,000 Residents in California

	Property	Violent
January–June 2012[36]	2,856	474
January–June 2013[37]	2,849	448
January–June 2014[38]	2,644	434
Percent change (2012 to 2014)	-7.4%	-8.4%

*Annualized number based on January–June 2012–2014 data for California cities of 100,000 persons or more (does not include arson).

[36] Federal Bureau of Investigation, Preliminary Semiannual Uniform Crime Report (January–June 2012), retrieved from *http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/preliminary-semiannual-uniform-crime-report-january-june-2012*.

[37] Federal Bureau of Investigation, Preliminary Semiannual Uniform Crime Report (January–June 2013), retrieved from *www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/preliminary-semiannual-uniform-crime-report-january-june-2013/preliminary-semiannual-uniform-crime-report-january-june-2013*.

[38] Federal Bureau of Investigation, Preliminary Semiannual Uniform Crime Report (January–June 2014), retrieved from *www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2014/preliminary-semiannual-uniform-crime-report-january-june-2014/preliminary-semiannual-uniform-crime-report-january-june-2014*.

The Legislature designed the SB 678 program to save state funds and improve the effectiveness of community supervision practices without compromising public safety.[39] Although it is not possible to confidently identify the specific impact of the program on crime, these data suggest that public safety has not been compromised as a result of SB 678.

B. State Savings, Allocation to County Probation Departments, Reported Use of Funds for Evidence-Based Practices, and Evaluation

State Savings and Allocation to County Probation Departments

The SB 678 program has been effective in saving state General Fund monies. The 23% reduction in felony probation revocations in 2010 resulted in state savings of approximately $181.4 million in FY 2011–2012. County probation departments received $88.6 million of these savings to further their implementation of evidence-based supervision practices. In calendar year 2011, the probation departments further reduced the probation failure rate, resulting in state savings of approximately $284.6 million, of which $138.3 million was distributed in FY 2012–2013 for local probation departments to reinvest in effective supervision practices.[40]

Prior to FY 2013–2014, SB 678 funding allocations to county probation departments were calculated based on savings to the state resulting from reductions in felony probationer prison commitments. The state shared funds with probation departments for those reductions in the state prison population that could be attributed to the counties' diversion of probationers who would have gone to state prison. As noted in section I.D, under the 2011 public safety realignment, hundreds of felony offenses previously punishable by a term in state prison may now be punished only by the same term in county jail.[41] After realignment went into effect, approximately half of all felony probationers who are revoked or commit new crimes serve their time in county jail instead of state prison.

Given this effect of realignment, beginning in FY 2013–2014 the state adjusted the formula for calculating savings to take into account the incarceration costs for prevented felony probation failures to both prison and jail. The Department of Finance determined that the improvements in 2012's PFR resulted in savings of $203.2 million, and county probation departments received $101.0 million as their share of the SB 678 program savings. For 2014–2015, DOF calculated the total 2013 SB 678 program savings as $250.4 million, with $124.8 million as the county probation departments' share, an increase of $23.8 million from FY 2013–2014.

The 2015–2016 State Budget makes significant changes to the SB 678 funding formula for the

[39] Pen. Code, §§ 1228(c), 1229(c)(1).
[40] The probation revocation reductions achieved in a calendar year are used to calculate state savings in the following fiscal year. County payments in FY 2012–2013 represent a portion of the state's cost savings resulting from reductions in felony probation revocations in 2011. The calculation for the payments takes into consideration the number of felony probationers who were not sent to prison in the prior calendar year, as well as the average length of stay avoided.
[41] Pen. Code, § 1170(h).

FY 2015–2016 distribution, including the addition of mandatory supervision and postrelease community supervision populations and a portion of stable funding based on a county's past success. The changes for the FY 2015–2016 allocations include a new baseline; the revisions to the formula also remove county jail admissions from the formula. The new baseline consists of the 2013 percentage of total state prison admissions, for both technical violations and new offenses for felony probationers and individuals on mandatory supervision and postrelease community supervision. The proposed formula provides $125.8 million to county probation departments, similar to the allocation in FY 2014–2015.

Probation Departments' Reported Use of Funds for Evidence-Based Practices and Evaluation

Although not charged with conducting a formal accounting of funds received through the SB 678 program, the Judicial Council incorporates a limited number of funding questions in the Annual Assessment[42]. County probation departments across California reported using SB 678 program funds to implement a variety of evidence-based practices (detailed in table 4, below).[43] The Judicial Council uses the probation departments' self-reported information to provide context for the ways in which resources are allocated within the program.

Probation departments have consistently reported using the majority of their SB 678 funds on the hiring, retention, and training of probation officers to supervise medium- and high-risk probationers. Probation departments also report using a sizable proportion of their SB 678 funds on evidence-based treatment programs and services for probationers. The departments reported spending funds on five major categories of evidence-based treatment programs and services: (1) cognitive behavioral therapy, (2) outpatient substance abuse treatment programs, (3) day reporting centers, (4) vocational training/job readiness programs, and (5) other treatment programs/services. As noted in the table, the use of the funds shift over time in anticipated ways. For example, the need for EBP training in the earlier years diminishes over time as the use of EBP is more fully implemented within probation departments. It should be noted that the spending categories used in the Annual Assessment are not mutually exclusive. For example, funds for support of officers may be used for training or for the improvement of data collection because it is often case-carrying officers that perform these data collection functions.

[42] The SB 678 Annual Assessment is an annual survey of each probation department to measure their current level of implementation of evidence-based practices (EBP), as well as the programs and practices used or funded during the previous fiscal year. The Annual Assessment is used to satisfy the outcome-based reporting requirements outlined in SB 678 (See Penal Code § 1231(b)). This survey also fulfills the requirement in PC § 1231 (c) that counties provide an annual written report to the Judicial Council. The Annual Assessment has been administered each year beginning FY 2010-2011.

[43] Caution is advised when interpreting these results as the reporting categories are not mutually exclusive and the reported proportions are likely representative of the SB 678 funds *spent* on the implementation of EBPs separate and apart from the amount of SB 678 funds *received* in a given fiscal year for EBP implementation. Information on the use of the 5% evaluation funds was asked separately and may overlap with information presented in table 4.

Table 4: Reported Use of Funds for Evidence-Based Practices

Spending Category	Average % Spent FY 2010–2011 (*N*=50)	Average % Spent FY 2011–2012 (*N*=48)	Average % Spent FY 2012–2013 (*N*=48)	Average % Spent FY 2013–2014 (*N*=50)
Hiring, support, and/or retention of case-carrying officers/supervisors	28%	48%	60%	60%
Evidence-based treatment programs	28%	27%	20%	18%
Improvement of data collection and use	4%	3%	7%	2%
Use of risk and needs assessment	12%	5%	5%	4%
Use/implementation of intermediate sanctions	NA	NA	3	7%
Training for officers/supervisors on EBP	7%	8%	<3%	3%
Other evidence-based practices[b]	10%	3%	3%	5%

[a] The following counties provided incomplete or invalid responses to these questions and were excluded from these analyses:
FY 2010–2011 — Colusa, Kings, San Diego, San Luis Obispo, Santa Clara, Sierra, Tehama, Tulare
FY 2011–2012 — Alpine, Amador, Butte, El Dorado, Imperial, Kings, Napa, Plumas, Sierra, Tehama
FY 2012–2013 — Butte, Del Norte, Imperial, Madera, Modoc, San Benito, Santa Clara, Shasta, Sierra, Tulare
FY 2013–2014 — Alpine, Amador, Contra Costa, Del Norte, Lake, Modoc, Nevada, Yolo

[b] Includes operational costs, administration and clerical support, materials, incentives, and associated start-up costs. A number of counties reported placing some funds in a reserve account for program maintenance, additional positions, and services related to their SB 678 program.

Annual Assessment data reported by probation departments to the Judicial Council.

C. Reported Implementation of Evidence-Based Practices and Impact on Outcomes

Reported Implementation of Evidence-Based Practices

The SB 678 program was designed to improve the effectiveness of probation departments' supervision practices through increased use of evidence-based practices, defined in statute as "supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under local supervision."[44]

The term denotes a wide range of systematic supervision practices that research has demonstrated to be effective in promoting and supporting positive individual behavioral change in people with criminal convictions. The SB 678 program provides support to probation departments in their efforts to implement necessary programmatic and systemic changes, and to improve practices that directly target probationer behavior.[45] There are five areas of EBPs that the SB 678 program recognizes as critical for improvement. These crucial components include the appropriate and effective use of the practices listed below.

[44] Pen. Code, § 1229(d).
[45] *Id.*, § 1230(b)(3)(A–E).

Validated risk and needs assessments

Validated tools for risk and needs assessment are standardized instruments that typically measure both static risk factors (those that do not change, e.g., criminal history) and dynamic risk factors (those that potentially may change). The use of validated risk and needs assessment tools has been substantiated as one of the most valuable components of evidence-based practices for supervision of felony probationers.[46] The tools can be used to provide caseload information to probation departments, helping officers to identify and focus on higher-risk populations while investing fewer resources ("banking") in low-risk probationers. Using validated risk and needs assessments to focus resources on higher-risk offenders and to structure caseloads so low-risk offenders are supervised separately from higher-risk offenders has been demonstrated to be effective EBPs.

Evidence-based supervision practices

The relationship between a probation officer and a probationer plays an important role in increasing the probability of an individual's success on probation. Officers can support probationers' positive behavior changes by forming appropriate, motivating relationships with those they supervise.[47] Providing swift, certain, and proportionate responses to probationers' negative behavior is also an important element in supervision that can increase the likelihood of success on probation.[48]

Treatment and targeted intervention

Research suggests that treatment programs should address the individual offender's assessed risk and needs, with a primary focus on dynamic risk factors. Cognitive behavioral therapy that addresses probationers' antisocial thinking patterns has been demonstrated to be an effective technique for high-risk offenders. Research has also confirmed that the effectiveness of treatment programs is increased when the programs are tailored to characteristics such as gender and culture.[49]

Collaboration among justice system partners

Effective implementation of evidence-based supervision practices requires "buy-in" from criminal justice partners. The collaboration of judges, district attorneys, public defenders, sheriffs, service providers, and others facilitates efforts by probation departments to put new procedures and protocols into place. Collaboration enables the entire justice system to

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[46] Crime and Justice Institute at Community Resources for Justice, *Implementing Evidence-Based Policy and Practice in Community Corrections,* 2nd ed. (Washington, D.C.: National Institute of Corrections, Oct. 2009).

[47] M. L. Thigpen, T. J. Beauclear, G. M. Keiser, and M. Guevara, *Motivating Offenders to Change: A Guide for Probation and Parole* (Washington, D.C.: National Institute of Corrections, U.S. Department of Justice, 2007).

[48] M. A. R. Kleiman and A. Hawken, "Fixing the Parole System—A System Relying on Swiftness and Certainty of Punishment Rather Than on Severity Would Result in Less Crime and Fewer People in Prison" (2008) 24(4) *Issues in Science and Technology* 45; F. S. Taxman, D. Soule, and A. Gelb, "Graduated Sanctions: Stepping Into Accountable Systems and Offenders" (1999) 79(2) *The Prison Journal* 182–204.

[49] D. A. Wilson, L. A. Bouffard, and D. L. Mackenzie, "A Quantitative Review of Structured, Group-Oriented, Cognitive-Behavioral Programs for Offenders" (2005) 32(2) *Criminal Justice and Behavior* 172–204.

provide a consistent focus on probationer behavior change and recidivism reduction.[50]

Management and administrative practices

Clear direction, support, and oversight from probation department management are necessary to ensure that officers understand the department's evidence-based practices and protocols and are motivated to work toward full implementation.[51]

County probation departments are required to provide an annual report to the Judicial Council evaluating the effectiveness of their programs.[52] To facilitate this requirement and promote reporting consistency, the Judicial Council created the Annual Assessment. This survey, which was pilot-tested in eight counties, is designed to measure probation departments' self-reported EBP implementation levels in the five categories described above,[53] and changes in EBP implementation over time.[54] The survey is administered at the beginning of each fiscal year and is designed to measure practices of the previous year. Because the survey was developed prior to realignment, it was initially focused solely on the felony probation supervision population. In 2014 probation departments were asked about their use of evidence based practices in supervising all felony populations, including individuals on mandatory supervision and postrelease community supervision.

Findings from the Annual Assessment indicate that the SB 678 program has been highly successful in increasing the levels of EBP implementation throughout the state (see figure 6, above). All components of EBP measured in the survey are substantially higher than they were at baseline; however, improvements may have begun to level off. [55] As is typical with any project aimed at improving outcomes, it is expected that the most significant advancements occur in the earliest stages of the program and level off over time. The leveling reported in the FY 2013–2014 survey may be due in part to the natural stabilization of practices and policies.

Another factor that might influence the measured level of implementation is the change to include all supervised felony offenders and to measure practices related to the mandatory

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[50] Crime and Justice Institute at Community Resources for Justice, *Implementing Evidence-Based Practices in Community Corrections*, 2nd ed. (Washington, D.C.: National Institute of Corrections, Oct. 2009).

[51] P. Smith, P. Gendreau, and K. Swartz, "Validating the Principles of Effective Intervention: A Systematic Review of the Contributions of Meta-analysis in the Field of Corrections" (2009) 4(2) *Victims & Offenders* 148–169.

[52] Pen. Code, § 1231(c).

[53] The Annual Assessment consists of 51 scaled and non-scaled items. Scaled items are scored on a 4-point scale from 0 to 3, with 3 as a gold standard rating for a given aspect of EBP. Implementation levels for the five EBP categories are calculated by summing a department's responses in a particular category and dividing that sum by the total possible points for that category. Overall EBP implementation levels for each probation department are calculated by taking the average of a department's scores across the five EBP categories.

[54] Increases in the self-reported levels of EBP implementation may gradually flatten over time given the structure of the Annual Assessment's scoring scheme. It may be challenging for counties to achieve the highest/gold standard rating across multiple items and multiple categories. As a result, increases in the percentage change in EBP implementation in the future may be less than that reported in the current or previous years.

[55] Overall reported levels of EBPs implementation are calculated by taking the average of a department's scores across the five EBP categories.

supervision and PRCS populations. For example, some probation departments reported that all individuals on PRCS were supervised on high-risk caseloads, regardless of the outcomes of their risk assessments. The FY 2014–2015 assessment will be focused on all locally supervised individuals and will provide more definitive information regarding continued implementation of EBP in probation departments. Statewide levels of EBP implementation are shown in figure 7, below.

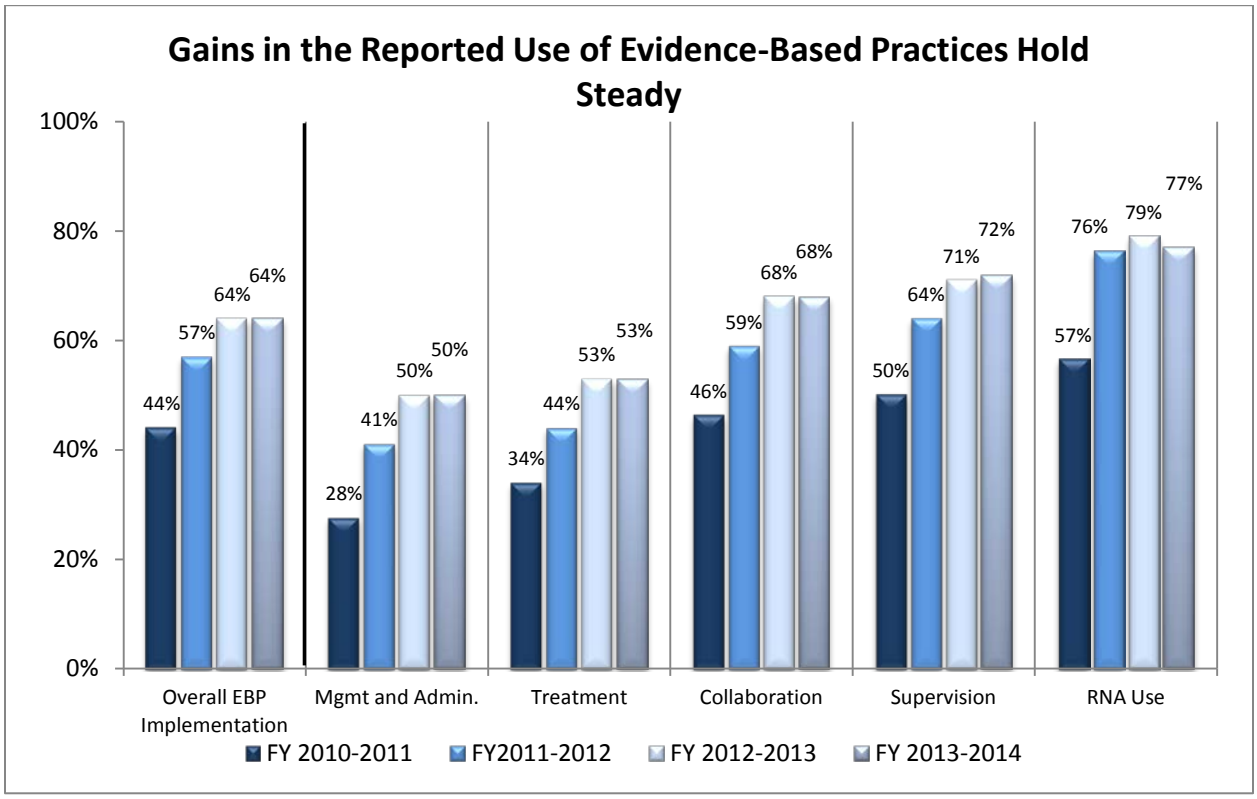

Figure 6. Levels of EBPs implementation reported by probation departments to the Judicial Council.

The effective use of resources to manage and supervise high-risk offenders is a cornerstone of evidence based supervision. Results from the Annual Assessment suggest that probation departments have continued to focus their active supervision caseloads on high-risk offenders in accordance with evidence based practices.

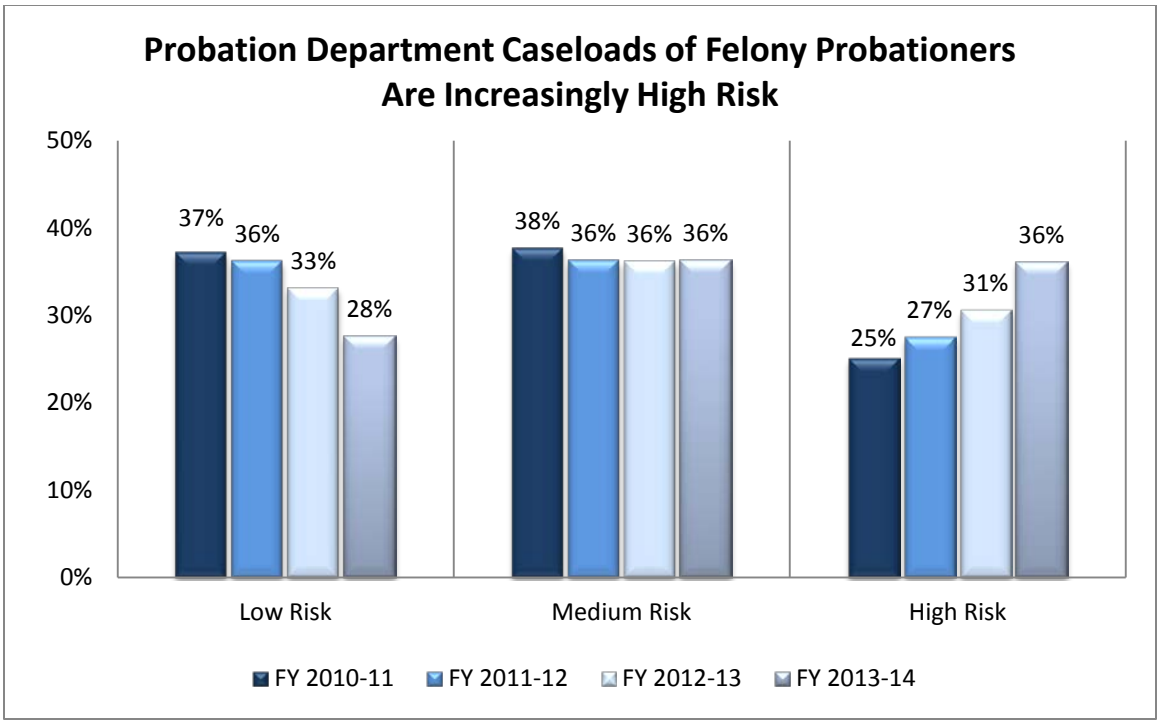

Figure 7. Annual Assessment data reported by probation departments to the Judicial Council.

Statewide data indicate that the reported number of high-risk probationers is increasing as a percentage of the total assessed probation population, and the percentage of low-risk probationers is decreasing. During the past four years of the program, of all probationers assessed, the reported percentage of low-risk probationers decreased from 37% to 28%, while the percentage of high-risk probationers increased from 25% to 36% (see figure 7).[56] This change in the composition of probation department caseloads to include an increased proportion of high-risk offenders is fully consistent with evidence-based practices that have demonstrated the benefit of investing supervision resources in moderate- and high-risk offenders.

Impact on Outcomes

The SB 678 program has been highly effective in increasing the use of evidence-based practices in probation departments throughout the state and has resulted in substantial reductions in the number of probationers going to state prison. Although the Judicial Council's Annual Assessment was not designed to measure the relationship between implementation of specific EBPs and particular outcomes, Judicial Council researchers have begun to use data gathered through this survey to investigate the association between particular EBPs and improved outcomes for probationers.

The relatively small sample size (*n*=58 probation departments) and the substantial variation in

[56] Figure 7 includes only counties that assessed more than 75% of their probation population in each fiscal year (*n* =31).

the range of PFRs[57] resulted in few statistically significant findings. Based upon data reported for FY 2013–2014, the following practices were found to be most strongly associated with reductions in departments' probation failure rates.[58]

- Regular sharing of data and outcome measures with justice partners;
- Linking departmental performance guidelines and practices to EBP skills;
- Department/supervisor support for EBPs through ongoing monitoring and feedback to officers;
- Training probation officers on how to use a validated risk/needs assessment (RNA);
- Creating supervision plans based on results from the needs portion of a validated RNA, and involving the offender in the creation of the supervision plan;
- Clearly articulating sanctions and incentives to probationers;
- Training probation officers to use responses to behavior that include information based on probationer risks and needs level, with regular supervisor review and feedback
- Training staff to ensure that responses to offender behavior are proportionate to that behavior;
- Developing officers' intrinsic motivational skills such as the use of motivational interviewing; and
- Placing felony offenders assessed as medium/high risk in smaller (< 75) caseloads.

Counties reporting a higher degree of collaboration with their justice partners tended to be less likely to show an increase in probation failure rates.

Lower PFRs were associated with cooperation between probation and the courts to establish swift and certain responses to probationer behaviors.

Additional research with individual, probationer-level data should be conducted to more thoroughly investigate the strength and interaction of these relationships and to provide a clearer picture of the effects of changing caseload composition.

[57] The large variation in probation failure rates is driven in part by small counties that, because of the limited number of probationers, may experience significant fluctuations in their PFR due to the outcomes of just one or two probationers. Small counties are disproportionally represented in both negative and positive changes to PFRs.

[58] Each item from the Annual Assessment was analyzed using Pearson product-moment correlation matrices for covariance with 2013 PFR, change in PFR from baseline to 2014, change from 2010 to 2014, and change from 2013 to 2014.

III. Recommendations for the SB 678 Program

Penal Code section 1232(e) requires the Judicial Council to report on the effectiveness of the SB 678 program and provide recommendations for resource allocation and additional collaboration to improve the program. As described above, the SB 678 program has generally achieved its primary objectives. Statewide, county probation departments have significantly reduced the number of adult felony probationers who are returned to state prison and have expanded the use of EBPs. Crime data reported by the Department of Justice and FBI during this time period further suggest that public safety has not been compromised during the period under review. The Judicial Council recommends, therefore, that the Legislature preserve the cornerstone of the SB 678 program—performance-incentive funding coupled with the use of EBPs. In addition, in order to measure the effectiveness of the program and develop recommendations for appropriate resource allocation, the requirements for county probation departments to report on the implementation of EBPs and provide other related data should be maintained. To further enhance and understand the effectiveness of SB 678, we make the following recommendations:

Study Individual Offender Recidivism

The Legislature should consider requiring a rigorous study of crime committed by felony probationers as insufficient research using *individual-level* data to study offender recidivism has been conducted. Although overall crime rates have declined since the inception of the SB 678 program, the reduction does not necessarily indicate a decline in crime rates by the felony probationers who are the focus of the program. It is possible that probation department efforts related to the implementation of EBP reduced felony probationer recidivism, but it is also possible that the reduction in crime rates resulted from factors unrelated to the SB 678 program. Starting in 2011, the SB 678 program began to collect *aggregate* data on crimes committed by felony probationers. There are limitations on conducting analyses with aggregate data, however, and the quality of the crime commission data provided by probation departments has been inconsistent. Thus, to fully understand the effectiveness of the SB 678 program and its impact on crime rates, a more robust study of crime committed by felony probationers that includes individual-level data is needed.

Study Impact of Prop. 47 on Probation Department Practices and the SB 678 Program

As outlined earlier, Prop. 47 has resulted in a reduced felony probation population because of fewer felony probation grants and the resentencing of felony cases to misdemeanors. The Legislature should consider requiring a study of the impact of Prop. 47 on probation departments, particularly changes in caseload and possible changes in practices and policies as a result of shifting caseloads. The impact of Prop. 47 on prison return rates and implementation and use of evidence-based practices should also be explored.

Continued Emphasis on Implementing Evidence-Based Practices

Although all components of EBPs measured in the survey are substantially higher than they were

at baseline, improvements have begun to level off. To improve the effectiveness of the program, probation departments should enhance the use of EBPs in specific areas, including (1) providing additional staff training on the overall effectiveness of specific aspects of EBPs, such as the use of proportionate rewards and sanctions; (2) using contracts to require and verify that existing treatment and other programs qualify as EBPs, including those that the counties require their probation departments to use for treatment of local offenders; and (3) continuing to evaluate the program as is required by statute. As stated earlier, while the SB 678 formula is revised to reflect changes post-realignment, it is imperative that probation departments receive adequate incentive funding to be able to continue to make improvements in their EBP implementation.

Encourage Counties to Implement Local Performance-Incentive Funding

Given the effectiveness of the SB 678 program, the state should encourage counties to implement local performance-incentive funding programs. Just as SB 678 directly impacted the state prison population, a local performance-incentive program could reduce the number of offenders who serve time in county jail. The state has an interest in promoting effective supervision at the local level because local incarceration costs are also significant. The state could encourage counties to develop these local programs through matching funds or by requiring that specified realignment funds be provided to county probation departments to reduce the number of supervised offenders who are revoked to county jail.

Conclusion

The California Community Corrections Performance Incentives Act (SB 678) is an effective program that appears to be operating as the Legislature intended when it created this incentive program for county probation departments. The SB 678 program was designed to alleviate state prison overcrowding and save state General Fund monies by reducing the number of adult felony probationers sent to state prison for committing a new crime or violating the terms of county-supervised probation. With adequate resources, probation departments will be able to continue using evidence-based practices developed through the SB 678 program to save state funds by reducing the number of felony probationers and offenders on PRCS and mandatory supervision revoked to prison. With secure funding for the future, the program has the potential to continue to lower or maintain low prison return rates without a reduction in public safety.

Appendix A

Probation Failure Rate by County[a]						
	Baseline (2006–2008)	**2010**	**2011[b]**	**2012[c]**	**2013[d]**	**2014[e]**
Statewide	**7.9%**	**6.1%**	**5.5%**	**5.5%**	**5.9%**	**5.6%**
Alameda	6.0%	5.5%	4.4%	4.9%	5.1%	5.8%
Alpine	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Amador	4.6%	9.0%	5.3%	6.6%	7.7%	5.9%
Butte	16.7%	15.9%	12.3%	16.1%	17.3%	17.5%
Calaveras	11.3%	4.7%	6.4%	4.0%	4.7%	7.5%
Colusa	12.3%	10.1%	2.0%	8.5%	11.6%	9.9%
Contra Costa	1.1%	0.6%	0.6%	2.0%	2.5%	2.7%
Del Norte	13.8%	6.4%	3.2%	9.7%	14.3%	9.5%
El Dorado	5.7%	4.1%	3.9%	5.7%	4.9%	3.6%
Fresno	10.6%	6.8%	7.1%	7.4%	7.3%	6.9%
Glenn	3.6%	1.9%	0.7%	3.1%	4.2%	6.8%
Humboldt	9.2%	7.7%	5.4%	7.8%	9.3%	8.5%
Imperial	4.8%	5.0%	6.2%	4.5%	12.2%	38.6%
Inyo	5.1%	4.5%	3.9%	3.2%	4.5%	7.6%
Kern	7.0%	7.4%	5.0%	5.2%	5.1%	3.4%
Kings	13.8%	6.3%	6.9%	6.0%[*]	12.0%	8.6%
Lake	9.2%	5.0%	2.8%	6.5%	8.2%	8.7%
Lassen	8.8%	2.1%	8.2%	26.0%	26.2%	11.0%
Los Angeles	8.7%	6.2%	4.9%	5.0%	5.3%	4.0%
Madera	6.2%	2.5%	3.3%	2.9%	3.8%	3.1%
Marin	2.6%	2.7%	0.8%	2.5%	4.5%	5.0%
Mariposa	7.5%	7.7%	2.7%	4.4%	2.6%	2.7%
Mendocino	2.7%	2.0%	1.7%	4.8%	6.4%	9.1%
Merced	4.5%	4.1%	3.0%	2.5%	1.4%	1.6%

Probation Failure Rate by County[a]						
	Baseline (2006–2008)	2010	2011[b]	2012[c]	2013[d]	2014[e]
Modoc	2.2%	1.1%	7.0%	10.3%	19.2%	1.4%
Mono	5.3%	1.7%	1.7%	0.0%	4.0%	2.5%
Monterey	8.1%	8.7%	7.8%	7.7%	8.4%	7.9%
Napa	3.4%	2.6%	3.6%	4.1%	3.5%	2.6%
Nevada	1.8%	0.9%	2.3%	1.7%	2.3%	2.7%
Orange	6.1%	4.2%	4.7%	4.4%	4.7%	5.7%
Placer	6.0%	5.2%	4.2%	3.2%	4.5%	4.3%
Plumas	17.5%	6.7%	6.7%	4.3%	4.3%	0.7%
Riverside	6.5%	3.9%	4.1%	4.3%	5.7%	6.5%
Sacramento	14.9%	10.6%	9.5%	5.6%	7.7%	8.5%
San Benito	7.2%	10.1%	9.3%	5.3%	5.7%	5.0%
San Bernardino	11.1%	9.8%	10.4%	8.6%	5.0%	1.9%
San Diego	8.2%	7.2%	7.0%	8.3%	10.6%	11.3%
San Francisco	4.4%	3.4%	2.9%	3.4%	2.6%	2.6%
San Joaquin	5.6%	4.5%	3.0%	2.8%	3.0%	3.1%
San Luis Obispo	3.5%	3.9%	2.8%	5.3%[*]	9.4%	8.2%
San Mateo	7.9%	5.4%	5.5%	7.2%[*]	10.0%	7.8%
Santa Barbara	5.8%	4.3%	4.6%	3.1%	3.2%	2.8%
Santa Clara	7.4%	7.0%	7.7%	6.6%	6.5%	6.5%
Santa Cruz	2.2%	2.7%	2.0%	2.2%	2.5%	2.5%
Shasta	14.6%	13.4%	9.5%	6.9%	8.9%	6.7%
Sierra	0.0%	3.0%	20.3%	17.4%[*]	12.5%	7.8%
Siskiyou	5.6%	4.5%	1.4%	1.9%	2.5%	5.8%
Solano	8.7%	7.8%	8.0%	8.7%	5.9%	8.4%
Sonoma	5.7%	6.4%	5.6%	4.6%	4.9%	5.0%
Stanislaus	6.3%	6.1%	4.9%	5.1%	8.0%	6.7%

Probation Failure Rate by County[a]						
	Baseline (2006–2008)	**2010**	**2011[b]**	**2012[c]**	**2013[d]**	**2014[e]**
Sutter	19.3%	15.0%	11.8%	7.1%	9.8%	8.0%
Tehama	10.9%	4.1%	7.4%	22.3%	8.5%	19.1%
Trinity	6.2%	0.0%	0.8%	2.1%	1.8%	1.0%
Tulare	6.0%	4.6%	3.8%	5.0%	4.6%	4.7%
Tuolumne	4.4%	1.4%	2.7%	2.6%	3.3%	4.3%
Ventura	6.0%	4.3%	5.2%	5.4%	11.8%	15.8%
Yolo	8.0%	4.7%	4.8%	4.1%	3.3%	4.2%
Yuba	10.4%	10.0%	10.3%	10.3%	8.0%	6.5%

[*] County has missing data for one or more quarters of the year. A proxy measure was used to establish their PFR.

[a] Counties with smaller probation populations will be more reactive to small changes in the actual number of revocations. For example, in a county with 1,000 probationers an increase of 5 revocations would increase their PFR slightly, from 5% to 5.5%, while in a county with only 100 probationers an increase of 5 revocations would *double* their PFR, from 5% to 10%.

[b] To account for the impact of realignment, the 4th quarter revocations for 2011 were estimated using the average of quarters 1–3.

[c] The 2012 PFR is calculated using the reported revocations to state prisons and county jails. Please note that probation departments are allowed to go back and revise previously submitted data. As a result of several resubmissions the 2012 PFR referenced in prior documents may be different than what is reported here.

[d] The 2013 PFR is calculated using the reported revocations to state prisons and county jails.

[e] To more easily allow for comparisons with past years, the 2014 PFR is calculated using the reported revocations to state prisons and county jails.

Appendix B

Performance Outcome Measures for the SB 678 Program (Pen. Code, §§ 1231 and 1232)[a]					
	2010	**2011**	**2012**	**2013**	**2014**
% individuals on local supervision supervised with EBPs[b] (1231(b)(1))	Data unavailable	37.3%	47.2%	64.7%	Data unavailable
% state moneys spent on evidence-based programs[c] (1231(b)(2))	88.1%	93.7%	100%	Data unavailable	Data unavailable
Probation supervision policies, procedures, programs, or practices that have been eliminated[d] (1231(b)(3))	Replacement of a risk and needs assessment tool. No longer using a "one size fits all" supervision approach. Now using risk level to determine supervision approach. No longer organizing caseloads by offense type or subjective criteria. No longer actively supervising low-risk probationers. Now banking low-risk probationers. Elimination of "zero tolerance" violation policies. Now using graduated sanctions to respond to violations.				
Total probation completions (1231(b)(4))	Data unavailable	Data unavailable	82,544	85,254	70,693
Unsuccessful completions (1231(b)(4))	Data unavailable	Data unavailable	17,684	19,612	18,598
Felony filings[e] (1231(d)(1))	248,424	241,117	243,320	260,461	Data unavailable
Felony convictions (1231(d)(2))	163,998	158,396[f]	158,252[g]	167,950[h]	Data unavailable
Felony prison admissions[i] (1231(d)(3))	58,737	50,678	33,990	37,367	Data unavailable
New felony probation grants (1231(d)(4))	75,095	81,892	79,711	85,863[j]	83,608
Adult felony probation population (1231(d)(5))	329,767	324,382	316,478	309,442	305,483
Total prison revocations	20,044	17,924	8,252	8,834	7,881
***Prison revocations for new felony offense* (1231(d)(6) & 1231(d)(7))**	7,533	6,896	4,133	4,632	3,884
Total jail revocations	----	----	9,048	9,853	9,295
***Jail revocations for new felony offense* (1231(d)(8) & 1231(d)(9))**	----	----	2,691	3,002	2,973
Total revocations[k]	20,044	17,924	17,296	18,687	17,176
% felony probationers convicted of a crime[l] (1232(c))	Data unavailable	Data unavailable	10.8%	11.8%	10.6%
% felony probationers convicted of a felony[m] (1232(c))	Data unavailable	Data unavailable	5.7%	7.3%	7.4%

[a] Except where indicated, all data reported by 57 probation departments to the Judicial Council.

[b] The data reported for fiscal years 2010–2011 and 2011–2012 include felony probationers only. For fiscal years 2012–2013 and 2013-2104, this figure includes MS and PRCS.

[c] Data are reported for fiscal years 2010–2011, 2011–2012, and 2012–2013. FY 2010–2011 and FY 2011–2012 totals reflect the proportion of the total allocation. The totals for fiscal years 2012–2013 and 2013-2014 reflect the total of funds *spent.* (See table 4.)

[d] Probation departments were asked to list supervision policies, procedures, programs, and practices that were eliminated since the effective date of SB 678. Twenty-seven probation departments submitted data for this question. The information provided here is a summary of the open-ended responses.

[e] These data were taken for the *2014 Court Statistics Report: www.courts.ca.gov/documents/2014-Court-Statistics-Report.pdf*. Data are reported for fiscal years 2009–2010, 2010–2011, 2011–2012 and 2012-1013. Data for fiscal year 2013–2014 are not yet available.

[f] These data were taken from the *2012 Court Statistics Report: www.courts.ca.gov/documents/2012-Court-Statistics-Report.pdf*. Data are reported for fiscal years 2009–2010 and 2010–2011.

[g] These data were taken from the *2013 Court Statistics Report: www.courts.ca.gov/documents/2013-Court-Statistics-Report.pdf*. Data are reported for fiscal year 2011–2012. Data for fiscal year 2012–2013 are not yet available.

[h] These data were taken for the *2014 Court Statistics Report: www.courts.ca.gov/documents/2014-Court-Statistics-Report.pdf*. Data are reported for fiscal year 2012-1013. Data for fiscal year 2013–2014 are not yet available.

[i] These data are taken from the California Department of Corrections and Rehabilitation's report *Characteristics of Felon New Admissions and Parole Violators Returned With a New Term, Calendar Year 2012*: *www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/ACHAR1/ACHAR1d2013.pdf*.

[j] This figure represents data from 56 probation departments.

[k] For 2012 and 2013, this figure is a sum of total revocations to both prison and county jail.

[l] This figure represents probation departments able to report complete data for the year. In 2012, this includes 49 departments; in 2013 this includes 51 departments.

[m] This figure represents probation departments able to report complete data for the year. In 2012, this includes 49 departments; in 2013 this includes 52 departments.

Appendix C

SB 678: Revised SB Funding Methodology, FY 2015–2016

Background

SB 678, the California Community Corrections Performance Incentives Act of 2009, established a system of performance-based funding that shares state General Fund savings with county probation departments that reduce their probation failure rate (PFR), originally defined in statute as the number of adult felony probationers who are revoked to state prison in a year as a percentage of the average probation population during the same period. At the center of SB 678 is the use of evidence-based practices to improve public safety and incentive based funding.

Since its passage, the State of California has adopted significant changes in criminal justice policies that directly impacted SB 678—most notably the 2011 Public Safety Realignment, which reduced the number of probationers eligible for revocation to state prison and created two new groups of offenders subject to local supervision. In order to maintain effective incentives and account for the significant changes in criminal justice policy, SB 85, adopted as a trailer bill to the 2015–2016 State Budget, revises the SB 678 funding formula and creates a funding methodology that should serve as a long-term formula. Prior to the adoption of SB 85, the state adopted temporary measures.

Revised Funding Methodology

Below is a summary of the newly revised SB 678 funding formula, which includes three funding components:

Funding Component #1: Comparison of county to statewide return to prison rates

The first funding component measures each county's performance against statewide failure rates. Each county's return to prison rate (RPR), which equals the number of individuals on felony probation, mandatory supervision, and PRCS sent to prison as a percentage of the total supervised population, is compared to statewide RPRs since the original SB 678 baseline period (2006–2008).

If a county's RPR is less than or equal to the original statewide baseline of 7.9%, the county will receive a percentage of its highest SB 678 payment from the period between program inception and FY 2014–2015. Depending on how a county's RPR compares to statewide RPRs, a county can receive between 40 and 100% of its highest payment. The statewide RPRs and percentages of savings are defined as follows:

- If a county's RPR is below 1.5%, the county will receive 100% of its highest prior payment.
- If a county's RPR is equal or greater to 1.5% but no higher than 3.2%, the county will receive 70% of its highest prior payment.
- If a county's RPR is above 3.2% but no higher than 5.5%, the county will receive 60% of its highest prior payment.

- If a county's RPR is above 5.5% but no higher than 6.1%, the county will receive 50% of its highest prior payment.

- If a county's RPR is above 6.1% but no higher than 7.9%, the county will receive 40% of its highest prior payment.

Tier Category Based on Statewide RPR	Percentage of Highest Prior SB 678 Payment
RPR <1.5%	100%
RPR ≥1.5% and ≤3.2%	70%
RPR >3.2% and ≤5.5%	60%
RPR >5.5% and ≤6.1%	50%
RPR >6.1% and ≤7.9%	40%

Funding Component #2: Comparison of each county's return to prison rate and its failure rate in the previous year

The second funding component is based upon how each county performs in comparison to the previous year. Each year a county's RPR from the previous year is applied to its current year's felony supervised populations to calculate the *expected* number of prison revocations. If a county sends fewer individuals on felony supervision to prison than the expected number, the county will receive 35 percent of the state's costs to incarcerate an individual in a contract bed[*] multiplied by the number of *avoided* prison stays. The number of avoided prison revocations are calculated separately for each felony supervised population (i.e. felony probation, mandatory supervision, PRCS).

- For example, if a county had a 3.2% RPR for their felony probation population in 2013 and 10,000 people on felony probation in 2014, its expected number of felony probation prison revocations in 2014 would be 320. If only 300 felony probationers were actually sent to prison in 2014, the county avoided sending 20 individuals to prison and would receive 35% of the state's cost to imprison these 20 individuals in a contract bed.

In order to continue to receive funds under this funding component, probation departments must continually reduce their return to prison rates year after year.

Funding Component #3: $200,000 minimum payment

The third funding component guarantees a minimum payment of $200,000 to each county to support ongoing implementation of evidence-based practices. If a county's total payment (from funding components 1 and 2) is less than $200,000, the Department of Finance will increase the final award amount so that it totals $200,000.

[*] A "Contract bed" is defined as: "The cost to incarcerate in a contract facility and supervise on parole an offender who fails local supervision and is sent to prison." (Pen. Code, § 1233.1(a).)