



By state law, the Board of Supervisors in every county in California is responsible for annually drafting and reviewing the rules and fees used by the local “correctional authority” in implementing non-custodial sentencing programs.

“Alternatives to Custody” Programs: The Board of Supervisors’ Legal Duty

In Contra Costa, non-custodial programs for sentenced adults are operated through the County’s “Custody Alternative Facility” (CAF) programs. CAF has three subordinate programs: **Work Alternative Program, Electronic Home Detention, and County Parole.**

By law, the Board of Supervisors can delegate management of these programs to the county’s “correctional authority” (in this case, the Sheriff’s Office). But the **Board itself retains legal authority and responsibility for their design, operations, and review.**

HOME DETENTION PROGRAMS

For **Home Detention** programs, state statute legally requires the County Board of Supervisors to establish, write, and review protocols governing non-custodial programs **every year** (PC 1203.016 (d)(1)).

Yet as far as we can tell, the last time the Contra Costa County Board of Supervisors fulfilled this responsibility was 2009.

“The rules and regulations and administrative policy of the [home detention] program **shall be written and reviewed on an annual basis** by the **county board of supervisors** and the correctional administrator.”
- California PC 1203.016 (d) (1)

WORK ALTERNATIVE PROGRAMS

For **Work Alternative Programs**, the Board of Supervisors is again the legal authority.

The Board of Supervisors “may authorize the sheriff or other official in charge of county correctional facilities to offer a voluntary program under which any person committed to the facility may participate in a work release program.” California Penal Code Section 4024.2 (a)

The Board “may prescribe **reasonable rules and regulations** under which a work release program is operated.”
- California PC 4024.2 (c)

REFERRALS, DENIALS, AND FEES FOR FREEDOM

For those who have been sentenced to jail time, **only the court** has the authority to refer people to custody alternative programs, and only in cases where **the judge has determined** that an individual is appropriate for a non-custodial sentence.

When the Sheriff's Office is deciding whether to accept someone into a custody-alternative program, California law requires that the "**recommendation or referral of the court shall be given weight** in the determination of acceptance or denial" (PC 1206 (e)).

Reasons for denial must be **specific**, in **writing**, and include the participant's **right to appeal** (PC 1203.016 (d) (1)).

Under both Work Alternative and Home Detention programs, **program fees must be based on an individual's "ability to pay"** (PC 4024.2 (e), PC 1203.016 (g)).

Therefore:

- Denying participation in such programs without clear protocols and specific written reason would be unlawful.
- Denying participation due to inability to pay would be unlawful.
- Threatening to take people into custody unless they can come up with an "amount due" would be unlawful.
- Denying participation without clear cause, or using an inability to pay as reason to take someone into custody, are bad public policies – **they increase public expense, increase the incarcerated population, and punish poverty.**

If low-income people who depend on public benefits are required to pay Board-approved justice fees to the Sheriff's Office or Probation Department just transfers funds from one public agency to another.

As with juvenile correctional fees, these fees are different from **victim restitution, court restitution, or other fines and fees that may be imposed at sentencing**. The only permissible purpose of the fees reviewed here is to offset administrative costs of the program (PC 1203.016 (g), 4024.2 (e)).

OUR ASK

- Reentry Solutions Group asks the Board of Supervisors to comply with the law by fulfilling the state-mandated requirement to annually review and rewrite Custody Alternative Facilities policies, to be presented to the Board no later than June 30, 2018.
- To accomplish this goal, Reentry Solutions Group asks the Board of Supervisors to refer this matter to the Public Protection Committee.
- Reentry Solutions Group asks the PPC in turn to direct the Office of Reentry and Justice to convene and manage a Task Force of the Sheriff's Office, the Public Defender, the District Attorney, and at least one community-based entity, to draft new policies.