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## Chapter 252: Helping to Manage California's Overcrowded Jails

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# Chapter 252: Helping to Manage California's Overcrowded Jails

*Robert Carlin*

## *Code Section Affected*

Penal Code § 1203.017 (new).

SB 959 (Romero); 2007 STAT. Ch. 252 (*Effective September 26, 2007*).

## I. INTRODUCTION

Outrage erupted when hotel heiress Paris Hilton was released from a Los Angeles County jail after serving only three days of a forty-five day jail sentence.<sup>1</sup> Amidst the general furor, allegations were made that Hilton received special treatment because she was wealthy.<sup>2</sup> Whether or not Paris Hilton's early release resulted solely from special treatment, the phenomenon of misdemeanor offenders being released prematurely is not unusual in California.<sup>3</sup> These early releases stem in large part from the overcrowding of California's prisons and jails, which house populations far in excess of their original capacity.<sup>4</sup> To make room for violent or felony offenders, jail officials are often left with little choice but to release low risk offenders, oftentimes far in advance of the completion of their sentences.<sup>5</sup>

To help manage this growing problem, the Legislature enacted Chapter 252 as an urgency statute.<sup>6</sup> Chapter 252 makes it possible for counties to ensure that criminals who are released early serve their full sentence through involuntary, electronically monitored home detention.<sup>7</sup>

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1. Jack Leonard & Doug Smith, *Hilton Will Do More Time Than Most, Analysis Finds*, L.A. TIMES, June 14, 2007, at A1; *see also* Francisco Vara-Orta, *Electronic Tether Keeps Heiress Home*, L.A. TIMES, June 8, 2007, at A22 (noting that Hilton would serve "the remainder of her sentence at home" under electronically-monitored home detention).

2. Leonard & Smith, *supra* note 1.

3. Andy Furillo, *Prison Crowding Plays a Role in Hilton Saga*, SACRAMENTO BEE, June 12, 2007, at A1, available at <http://www.sacbee.com/111/story/217613.html>.

4. *See California's Overcrowded Prisons Subject of Court Hearing*, MADERA TRIB., June 8, 2007, <http://www.maderatribune.com/news/newsview.asp?c=216535> [hereinafter *Court Hearing*] (on file with the *McGeorge Law Review*) ("California now has 172,000 prisoners living in space designed for fewer than 100,000."); Letter from M. Steven Zehner, L.A. County, Sacramento Legislative Office, to Senator Gloria Romero, Cal. State Senate (Apr. 9, 2007) [hereinafter *Zehner Letter*] (on file with the *McGeorge Law Review*) ("In 2005, . . . 233,000 offenders were released early or were never incarcerated due to local jail overcrowding.").

5. Leonard & Smith, *supra* note 1 ("The Times' analysis of jail releases found that more than [sixty percent] of those with cases similar to Hilton's walked free after serving less than half their time."); Letter from Leroy D. Baca, L.A. County Sheriff, to Senator Gloria Romero, Cal. State Senate (Mar. 14, 2007) [hereinafter *Baca Letter*] (on file with the *McGeorge Law Review*).

6. 2007 Cal. Stat. ch 252, § 2.

7. SENATE FLOOR, COMMITTEE ANALYSIS OF SB 959, at 2 (May 17, 2007).

## II. LEGAL BACKGROUND

### A. California's Continuing Crisis of Overcrowded Prisons and Jails

Overcrowded prisons are nothing new to California.<sup>8</sup> County jails fare no better—inmates in at least twenty counties have won lawsuits because of the overpopulated conditions.<sup>9</sup> As a result, courts have set mandatory population caps on county jails.<sup>10</sup> Currently, several federal courts are also considering imposing statewide population caps on California's prisons.<sup>11</sup>

Numerous solutions have been proposed to alleviate California's overcrowded prisons and jails.<sup>12</sup> Governor Schwarzenegger recently approved a massive increase in spending to facilitate the addition of 53,000 beds to California's prisons and jails.<sup>13</sup> Changes in the parole system and increased rehabilitative opportunities for parolees have also been suggested.<sup>14</sup> Prior to these remedial measures, the Legislature had enacted a program of voluntary home detention to help counties oversee jail populations that continue to grow and exceed available jail space.<sup>15</sup>

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8. See DATA ANALYSIS UNIT, CAL. DEP'T OF CORR. & REHAB., HISTORICAL TRENDS 1985-2005, at 10a tbl.10 (2006), [http://www.cdcr.ca.gov/Reports\\_Research/Offender\\_Information\\_Services\\_Branch/Annual/HIST2/HIST2d2005.pdf](http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/HIST2/HIST2d2005.pdf) [hereinafter HISTORICAL TRENDS] (on file with the *McGeorge Law Review*). In 1985, a population of 47,082 prisoners were housed in facilities designed to accommodate 29,042. *Id.* By 2005, the population of prisoners had increased to 164,179, while the capacity of the facilities had only grown to 81,008. *Id.*

9. CAL. STATE SHERIFFS' ASS'N, DO THE CRIME, DO THE TIME? MAYBE NOT, IN CALIFORNIA app. II (2006), [http://www.calsheriffs.org/Documents/do\\_the\\_crime,\\_do\\_the\\_time.pdf](http://www.calsheriffs.org/Documents/do_the_crime,_do_the_time.pdf) [hereinafter DO THE TIME] (on file with the *McGeorge Law Review*) (listing the following counties with court imposed population caps: Butte, Calaveras, El Dorado, Fresno, Kern, Los Angeles, Merced, Orange, Placer, Plumas, Riverside, San Bernardino, San Diego, San Joaquin, Santa Barbara, Shasta, Stanislaus, Sutter, Tulare, and Yolo).

10. See Shreema Mehta, *Judge Forces LA County to End Jail Overcrowding*, NEW STANDARD, Oct. 31, 2006, <http://newstandardnews.net/content/index.cfm/items/3834> (on file with the *McGeorge Law Review*) (discussing the restrictions Judge Pregerson imposed upon Los Angeles County jails after it was revealed that the jails often held thirty-five inmates in temporary holding cells designed to accommodate twenty inmates); see also DO THE TIME, *supra* note 9, at 17 (discussing the early release of inmates due to overcrowding by Calaveras County, Los Angeles County, and San Bernardino County).

11. Andy Furillo, *Court to Consider Capping Prisons: Inmates' Lawyers Suggest a Figure that Could Mean Early Releases for 35,000*, SACRAMENTO BEE, May 28, 2007, at A4, available at <http://www.sacbee.com/111/story/196176.html>.

12. See, e.g., Public Safety and Offender Rehabilitation Act of 2007, 2007 Cal. Stat. ch. 7 (codified in scattered sections of CAL. GOV'T CODE and CAL. PENAL CODE) (approving the construction of an additional 53,000 prison and jail beds).

13. Andy Furillo, *Governor Signs Prison Bill*, SACRAMENTO BEE, May 3, 2007, <http://www.sacbee.com/111/story/166239.html> (on file with the *McGeorge Law Review*) (“[S]pace for another 13,000 beds will be added to county jails around the state, which are currently releasing 18,000 inmates a month due to lack of space.”); David Muradyan, *California's Response to Its Prison Overcrowding Crisis*, 39 MCGEORGE L. REV. 482 (2008).

14. Andy Furillo, *Parole Policy Change Pushed: Panel to Urge that Fewer Violators be Returned to Prison*, SACRAMENTO BEE, June 20, 2007, at A1, available at <http://www.sacbee.com/111/story/231727.html> (reporting a recommendation that “[o]ffenders who only violate technical terms of their release . . . should be directed to community programs outside the prison system”).

15. CAL. PENAL CODE § 1203.016 (West 2004 & Supp. 2008).

### B. Home Detention in Lieu of Jail

Existing law permits counties to implement a program that allows some inmates<sup>16</sup> to voluntarily serve the remainder of their sentences under electronically monitored home detention.<sup>17</sup> Under this program, an inmate must wear an electronic monitoring device, which ensures the inmate remains detained in his or her home.<sup>18</sup> Exceptions to full-time home detention allow inmates to seek employment or education in the community,<sup>19</sup> but if the inmate strays from these authorized exceptions he can be subject to additional punishment and removal from the program.<sup>20</sup> Counties also have discretion to set an administrative fee based upon the inmate's ability to pay for home detention.<sup>21</sup>

### C. Effectiveness of Voluntary Home Detention

Los Angeles County has compiled statistics based on its implementation of the home detention program.<sup>22</sup> The program has proven to be extremely cost-efficient; even if the inmate is unable to pay, electronic monitoring costs a mere ten dollars per day, compared to the seventy dollars needed for incarceration.<sup>23</sup> Furthermore, 55,002 inmates have been released on this program, which has opened up a corresponding number of beds for violent and serious criminals.<sup>24</sup>

The voluntary home detention program is not without its problems.<sup>25</sup> The number of inmates applying for voluntary home detention has dropped considerably over the past eight years.<sup>26</sup> This reduction can be attributed in part to

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16. The two classes of inmates eligible to enter the voluntary home detention program are minimum security inmates and low-risk offenders.

"Minimum security inmate" means an inmate who, by established local classification criteria, would be eligible for placement in a Type IV local detention facility, as described in Title 15 of the California Code of Regulations, or for placement into the community for work or school activities, or who is determined to be a minimum security risk under a classification plan developed pursuant to Section 1050 of Title 15 of the California Code of Regulations. . . . "Low-risk offender" means a probationer, as defined by the National Institute of Corrections model probation system.

*Id.* § 1203.016(h)(2)-(3); *see also* CAL. CODE REGS. tit. 15, § 1006 (2005) (defining a Type IV facility as "a local detention facility or portion thereof designated for the housing of inmates eligible under Penal Code Section 1208 for work/education furlough and/or other programs involving inmate access into the community").

17. CAL. PENAL CODE § 1203.016(a).

18. *Id.* § 1203.016(b)(3).

19. *Id.* § 1203.016(f).

20. *Id.* § 1203.016(d); *id.* § 4532(b) (West 2000).

21. *Id.* § 1203.016(g).

22. ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 959, at N-M (June 19, 2007).

23. Zehner Letter, *supra* note 4.

24. *Id.*

25. ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 959, at K-M (June 19, 2007) (discussing the difficulties a voluntary home detention program can encounter when prisons face severe overcrowding).

26. *Id.* at M. In 1997-1998, 16,659 inmates applied. By 2005-2006, the number of applicants had

the cost of the program to inmates.<sup>27</sup> Many inmates also understand that the population caps on county jails effectively means that there is little chance they will serve all, or in some cases *any*, of their sentences.<sup>28</sup>

### III. CHAPTER 252

Chapter 252 takes immediate action to help counties do their part to stem the looming prison and jail overcrowding crisis.<sup>29</sup> It gives each county's board of supervisors discretion to implement an involuntary home detention program to be administered by a correctional administrator.<sup>30</sup> The board of supervisors is also empowered to enact "reasonable rules and regulations" for the involuntary home detention program.<sup>31</sup>

Under the program, one day of home detention is equivalent to one day of incarceration, and participating inmates must be provided with the rules of detention upon request.<sup>32</sup> Home detention requires electronic monitoring, which will not be charged to participating inmates.<sup>33</sup> The correctional administrator may grant certain privileges<sup>34</sup> to inmates in home detention, and the supervising peace

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dropped nearly in half to 8,713. *Id.*

27. *Id.* at L.

28. Zehner Letter, *supra* note 4; see also DO THE TIME, *supra* note 9, at v ("[I]n 2005 statewide, 9,148 offenders a month were given pretrial releases and an additional 9,323 inmates a month were released early from their jail sentences due solely to lack of jail space.").

29. See 2007 Cal. Stat. ch. 252, § 2 (classifying Chapter 252 as an urgency statute "[i]n order to help relieve jail overcrowding and ensure inmates are serving full sentences to the extent practicable"); *Court Hearing*, *supra* note 4 (indicating that current litigation could result in thousands of prisoners being released early and that "California now has 172,000 prisoners living in space designed for fewer than 100,000").

30. CAL. PENAL CODE § 1203.017(a) (enacted by Chapter 252). A correctional administrator is defined as "the sheriff, probation officer, or director of the county department of corrections." *Id.* § 1203.017(g) (enacted by Chapter 252).

31. *Id.* § 1203.017(b) (enacted by Chapter 252). The statute lists the following mandatory rules:

(1) The participant shall remain within the interior premises of his or her residence during the hours designated by the correctional administrator. (2) The participant shall admit any peace officer designated by the correctional administrator into his or her residence at any time for purposes of verifying the participant's compliance with the conditions of his or her detention. (3) The use of electronic monitoring may include global positioning system devices or other supervising devices for the purpose of helping to verify his or her compliance with the rules and regulations of the home detention program. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the participant and the person supervising the participant which is to be used solely for the purposes of voice identification. (4) The correctional administrator in charge of the county correctional facility from which the participant was released may, without further order of the court, immediately retake the person into custody to serve the balance of his or her sentence if the electronic monitoring or supervising devices are unable for any reason to properly perform their function at the designated place of home detention, if the person fails to remain within the place of home detention as stipulated in the agreement, or if the person for any other reason no longer meets the established criteria under this section.

*Id.*

32. *Id.* § 1203.017(a), (d)(1) (enacted by Chapter 252).

33. *Id.* § 1203.017(a), (j) (enacted by Chapter 252).

34. See *id.* § 1203.017(f) (enacted by Chapter 252) (noting that incentives include "employment in the

officer can terminate home detention if the supervisor has “reasonable cause to believe” the inmate is violating the rules of detention or if electronic monitoring ceases to function properly.<sup>35</sup>

The correctional administrator has sole discretion to determine the eligibility of inmates for participation in the home detention program based upon the criteria established in Chapter 252.<sup>36</sup> Judicial recommendation for placement in the home detention program will be given great weight, and the court may prohibit an inmate’s participation in the program.<sup>37</sup> If the correctional administrator overrides the recommendation of the court and denies an inmate participation in the program, the administrator must give specific reasons to the defendant in writing.<sup>38</sup> The correctional administrator will provide information about the participant to the Corrections Standards Authority and, upon request, to the appropriate law enforcement agencies.<sup>39</sup> Such information will only be used to measure the effects of the home detention program upon the community.<sup>40</sup>

Chapter 252 also enacts several provisions to govern the implementation of home detention programs.<sup>41</sup> First, no private or public agency may operate a home detention program without a written contract with the correctional administrator.<sup>42</sup> The correctional administrator may only enter into such contracts with the approval of the board of supervisors.<sup>43</sup> The home detention program prohibits any private or public agency from employing anyone participating in

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community,” “psychological counseling sessions or educational or vocational training classes,” and “medical and dental assistance”).

35. *Id.* § 1203.017(c) (enacted by Chapter 252). Termination of home detention requires “general or specific authorization of the correctional administrator” and may be effected “without a warrant of arrest.” *Id.*

36. *Id.* § 1203.017(d) (enacted by Chapter 252).

37. *Id.* § 1203.017(e) (enacted by Chapter 252).

38. *Id.* § 1203.017(d)(2) (enacted by Chapter 252) (“[N]otice of denial or removal shall include the participant’s appeal rights, as established by program administrative policy.”). These same procedural protections are accorded to “all persons removed from program participation.” *Id.*

39. *Id.* § 1203.017(h)(1) (enacted by Chapter 252).

The information required . . . shall consist of the following: (A) The participant’s name, address, and date of birth. (B) The offense committed by the participant. (C) The period of time the participant will be placed on home detention. (D) Whether the participant successfully completed the prescribed period of home detention or was returned to a county correctional facility, and if the person was returned to a county correctional facility, the reason for that return. (E) The gender and ethnicity of the participant.

*Id.* § 1203.017(h)(2) (enacted by Chapter 252). A law enforcement agency is one located in “a city or unincorporated area where an office is located to which persons on involuntary home detention report.” *Id.* § 1203.017(h)(1) (enacted by Chapter 252).

40. *Id.* § 1203.017(h)(3) (enacted by Chapter 252).

41. *See id.* § 1203.017(i) (enacted by Chapter 252) (explaining that “[i]t is the intent of the Legislature that home detention programs established under this section maintain the highest public confidence, credibility, and public safety” and explaining how the program will be implemented to further these standards).

42. *Id.* § 1203.017(i)(1) (enacted by Chapter 252).

43. *Id.* (enacted by Chapter 252).

the program.<sup>44</sup> Second, the normal booking process for sentenced offenders cannot be circumvented, and all participants must be supervised.<sup>45</sup>

There are several additional requirements for privately operated home detention programs.<sup>46</sup> Every contract with a private agency must contain several provisions.<sup>47</sup> For example, the private agency must comply with all standards established by state correctional agencies.<sup>48</sup> Furthermore, the respective liabilities of the private agency and the county must be established by contract.<sup>49</sup> The contract must require that the private agency demonstrate financial responsibility<sup>50</sup> to the board of supervisors.<sup>51</sup> In doing so, the private agency ensures it can “fully indemnify the county for [any] reasonably foreseeable public liability.”<sup>52</sup> Finally, each contract must also provide that the correctional administrator may terminate the contract if the contractor fails to demonstrate financial responsibility.<sup>53</sup> Failure of a private agency to comply with the statutory provisions or the terms of the contract may be grounds to terminate the contract.<sup>54</sup> Private agencies that violate the contract terms will be given sixty days notice before the possible termination of the contract.<sup>55</sup> If the failure to comply presents a serious threat to public safety, shorter notice or immediate termination of the contract is permitted.<sup>56</sup>

#### IV. ANALYSIS OF CHAPTER 252

Several cities and law enforcement groups have endorsed Chapter 252.<sup>57</sup> One

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44. *Id.* (enacted by Chapter 252).

45. *Id.* § 1203.017(i)(2) (enacted by Chapter 252).

46. *See id.* § 1203.017(i)(3)(A)-(G) (enacted by Chapter 252) (establishing the requirements for privately operated home detention programs).

47. *Id.* § 1203.017(i)(3)(B)(i)-(v) (enacted by Chapter 252) (outlining the provisions that each contract must include).

48. *Id.* § 1203.017(i)(3)(B)(i) (enacted by Chapter 252).

49. *Id.* § 1203.017(i)(3)(B)(ii) (enacted by Chapter 252).

50. *See id.* § 1203.017(k)(1)-(3) (enacted by Chapter 252) (“For purposes of this section, ‘evidence of financial responsibility’ may include, but is not limited to, certified copies of any of the following: (1) A current liability insurance policy. (2) A current errors and omissions insurance policy. (3) A surety bond.”).

51. *Id.* § 1203.017(i)(3)(B)(iii)-(iv) (enacted by Chapter 252).

52. *Id.* § 1203.017(i)(3)(B)(iii) (enacted by Chapter 252).

53. *Id.* § 1203.017(i)(3)(B)(v) (enacted by Chapter 252).

54. *Id.* § 1203.017(i)(3)(E) (enacted by Chapter 252).

55. *Id.* § 1203.017(i)(3)(F) (enacted by Chapter 252).

56. *Id.* § 1203.017(i)(3)(G) (enacted by Chapter 252).

57. Letter from Diane DuBois, Mayor, City of Lakewood, to Senator Gloria Romero, Cal. State Senate (May 16, 2007) [hereinafter DuBois Letter] (on file with the *McGeorge Law Review*); Baca Letter, *supra* note 5; Letter from Laura Lee, Mayor, City of Cerritos, to Senator Gloria Romero, Cal. State Senate (May 16, 2007) (on file with the *McGeorge Law Review*); Letter from Karen A. Pank, Executive Dir., Chief Prob. Officers of Cal., to Senator Gloria Romero, Cal. State Senate (April 23, 2007) (on file with the *McGeorge Law Review*); Letter from Steve Tye, Mayor, City of Diamond Bar, to Senator Gloria Romero, Cal. State Senate (June 5, 2007) (on file with the *McGeorge Law Review*); Letter from Nick Warner, Legislative Advocate, Warner & Pank, LLC, on behalf of the Cal. State Sheriff’s Ass’n and Cal. Prob., Parole & Corr. Ass’n, to Senator Gloria

of the strongest supporters of Chapter 252, Los Angeles County, has significantly reduced its jail overcrowding by implementing a voluntary home detention program.<sup>58</sup> But the voluntary nature of the existing regime is also its primary weakness.<sup>59</sup> With an expanding jail population, many inmates have learned that they can merely wait, and the existing population caps alone will force officials to release them early.<sup>60</sup> Federal judges seem poised to impose mandatory prison caps on all of California's correctional facilities,<sup>61</sup> which would in turn burden county jails all the more.<sup>62</sup> Supporters believe that Chapter 252 is a vital tool for allowing communities to mitigate the effects of a severely burdened correctional system.<sup>63</sup>

The sole opposition to Chapter 252, Protection and Advocacy, Inc. (PAI), is not opposed to the idea of home detention per se.<sup>64</sup> Rather, PAI is concerned

Romero, Cal. State Senate (Mar. 29, 2007) (on file with the *McGeorge Law Review*).

58. See *supra* Part II.C (describing Los Angeles' successes in implementing a voluntary home detention program).

59. See *supra* notes 25-28 and accompanying text (discussing the difficulties that Los Angeles encountered in administering a voluntary home detention program).

60. See HISTORICAL TRENDS, *supra* note 8, at 10a tbl.10 (showing the growth in prison population from roughly 47,000 in 1985 to over 160,000 in 2005); DuBois Letter, *supra* note 57 ("[C]ounty inmates choose to serve only [ten percent] of their time in jail in lieu of electronic monitoring for their entire sentence as imposed by the courts. They know that they will serve little or none of their sentences and will be released without supervision.").

61. Laura Kurtzman, *Judges Consider Naming Panel to Cap California Prison Population*, SAN DIEGO UNION-TRIB., June 27, 2007, <http://www.signonsandiego.com/news/state/20070627-1819-ca-californiaprisons.html> (on file with the *McGeorge Law Review*) (noting judicial skepticism over the efficacy of California's recent efforts to fix the decade-long problem of prison overcrowding); see also Bob Egelko, *Schwarzenegger's Stand on Inmates Rejected*, S.F. CHRON., Sept. 12, 2007, at B5, available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2007/09/12/BA9DS3LFE.DTL> ("If the new panel—Henderson, Karlton and Judge Stephen Reinhardt of the appeals court—finds that overcrowding makes improvements impossible, it could impose a lid that would require the state to release prisoners. Federal law bars a single judge from limiting a state's prison population but allows a three-judge panel to do so.").

62. Fact Sheet, Governor Tours County Jail, Highlighting Impact of Early Release, Overcrowding on Local Communities, <http://gov.ca.gov/fact-sheet/5586> (last visited Feb. 24, 2008) (on file with the *McGeorge Law Review*).

*If federal judges cap prison populations, local jails will be forced to absorb more offenders.* Offenders who would normally go to state prison will remain in sheriffs' custody if a state population cap is imposed. Sheriffs will have to release even more local offenders to accommodate prisoners released from state prisons.

*Id.*

63. DuBois Letter, *supra* note 57 ("We support SB 959 [Chapter 252] because it gives counties the flexibility they need to deal with severe overcrowding in jails."); see also *Court Hearing*, *supra* note 4 ("California now has 172,000 prisoners living in space designed for fewer than 100,000.").

64. See Letter from Margaret Jakobson-Johnson, Advocacy Dir., Prot. & Advocacy, Inc., to Senator Gloria Romero, Cal. State Senate (Apr. 10, 2007) [hereinafter Jakobson-Johnson Letter] (on file with the *McGeorge Law Review*).

Protection & Advocacy, Inc. (PIA), [is] a non-profit advocacy organization mandated to advance the human and legal rights of people with disabilities . . . . PAI opposes this bill because the bill does not discuss the criteria used for selecting sentenced misdemeanor inmates for home detention, nor does the bill explain how services are set-up or paid for.

*Id.*; see also Prot. & Advocacy, Inc., PAI's History, Role, and Funding, <http://pai-ca.org/about/history.htm> (last

about how jails will implement an involuntary home detention program.<sup>65</sup> PAI's primary concern is the potential for the abuse of inmates placed into involuntary home detention who need expensive medical or psychiatric care.<sup>66</sup> Jails are currently required to provide both basic and emergency medical care to all inmates,<sup>67</sup> but the availability of home detention creates an opportunity for correctional facilities to avoid this obligation by placing individuals into involuntary home detention without paying for proper care.<sup>68</sup> However, Chapter 252 explicitly requires that privately operated home detention programs comply with the same regulations governing work-furlough programs.<sup>69</sup>

## V. CONCLUSION

Although Chapter 252 is not a panacea for California's overcrowded prisons and jails, it does give the most burdened counties a powerful tool to reduce overcrowding in jails and protect the public.<sup>70</sup> If it achieves the same results as the voluntary home detention program, counties will have a cost-effective means of ensuring that low-risk offenders, like Paris Hilton, serve their full sentences and at the same time safeguard the public by keeping serious and violent offenders off the streets.<sup>71</sup>

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visited June 29, 2007) (on file with the *McGeorge Law Review*) (describing the origin and evolution of Protection and Advocacy, Inc.).

65. Jakobson-Johnson Letter, *supra* note 64 ("PAI opposes this bill because the bill does not discuss the criteria used for selecting sentenced misdemeanor inmates for home detention, nor does the bill explain how services are set-up or paid for.").

66. *See id.*

[T]he bill does not discuss the criteria used for selecting sentenced misdemeanor inmates for home detention, nor does the bill explain how services are set-up or paid for. . . . Since there are inmates that require extensive and costly medical care, SB 959 [Chapter 252] may give jails the opportunity to get out from under its responsibility under the California Code of Regulations.

*Id.*

67. CAL. CODE REGS. tit. 15, § 1200 (2005).

68. Jakobson-Johnson Letter, *supra* note 64 ("[T]his bill may allow jails to place individuals who need critical medical or psychiatric care in home detention without identified services or funding to pay for these services.").

69. CAL. PENAL CODE § 1203.017(i)(3)(C) (enacted by Chapter 252) ("All privately operated home detention programs shall comply with all appropriate ordinances and regulations specified in subdivision (a) of Section 1208."). Section 1208 provides, in pertinent part, that a "private agency or entity agrees to operate in compliance with all appropriate state and local building, zoning, health, safety, and fire statutes, ordinances, and regulations and the minimum jail standards for Type IV facilities as established by regulations adopted by the Board of Corrections . . ." *Id.* § 1208(a) (West 2004).

70. *See* 2007 Cal. Stat. ch. 252, § 2 (indicating Chapter 252 is intended to "help relieve jail overcrowding").

71. Zehner Letter, *supra* note 4.