



OFFICE OF THE GOVERNOR

SEP 29 2024

To the Members of the California State Assembly:

I am returning Assembly Bill 2178 without my signature.

This bill would define the number of "empty beds" at institutions operated by the California Department of Corrections and Rehabilitation based on the population cap imposed by a federal court in 2014 to remedy constitutional violations it identified from prison overcrowding, and would require CDCR, by 2029-30, to maintain no more than 2,500 "empty beds" under the court-imposed capacity limit.

I support efforts to find efficiencies in prison operations. In 2006, California's incarcerated population peaked at 173,479, and exceeded the design capacity of its institutions by more than 200%. Incarcerated people were housed in triple bunk beds in gymnasiums converted to dormitories. This resulted in a federal court finding that the overcrowding violated the Eighth Amendment rights of the incarcerated population. The court prohibited CDCR's prison population exceeding 137.5% of design capacity.

Since that court order, California has reduced its prison population to roughly 92,200. We have closed 2 prisons, eliminating 15,000 beds from design capacity and 2,400 from the closed contracted prison. This year, my Administration announced the accelerated closure of a third prison, as well as the deactivation of over 40 housing units, resulting in a reduction of more than 5,000 additional prison beds. Today, CDCR's population continues to exceed design capacity, remaining at just over 115% systemwide, with some institutions considerably higher, above 160% design capacity.



This bill assumes that CDCR should operate its prisons with a population just shy of the number identified by a federal court as violating the Eighth Amendment rights of the incarcerated population. This effectively prohibits CDCR from moving more of the incarcerated population to single cells.

I fundamentally disagree that the population cap set by the federal court to avoid constitutional violations is the appropriate yardstick by which CDCR should determine the appropriate, as opposed to the maximum, capacity of its correctional institutions. To the contrary, CDCR should evaluate, at an institution level, the *appropriate* capacity of each institution based on the population it can support with medical and mental health care, as well as programming, educational and vocational opportunities to help our incarcerated population return safely and successfully to their families and communities when they complete their sentences.

In 2011-12, with a population of more than 135,000, CDCR offered fewer than 41,000 rehabilitative programming slots in its prisons. As of June 2023, the department offers more than 116,000 assignments to its population of under 100,000 individuals. Even with a significantly decreased population, the demand for programming space has dramatically increased. Therefore, in assessing the operational capacity needed, we must have the flexibility to place significant emphasis on programming space.

My Administration is working to implement the California Model – a transformational change to the state prison system to improve public safety by prioritizing rehabilitation, access to health care, and normalizing living conditions for incarcerated people. A transformed system should include eliminating the practice of having two adults share 66 square feet of living space.

As we continue to transition to the California Model, and invest even more in rehabilitation through educational and vocational opportunities, maximal flexibility for the use of existing space in facilities is critical. We must leave the practice of warehousing incarcerated people in the past and instead focus on a future that provides humane and dignified housing that facilitates rehabilitation. Codifying this prescriptive approach to "empty beds" will undermine this effort.

For these reasons, I cannot sign this bill.

Sincerely,

Gavin Newsom

A handwritten signature in black ink, appearing to be 'Gavin Newsom', is written over the printed name. The signature is stylized and extends to the right with a long horizontal stroke.