



5

# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT  
**April 18, 2006**

Honorable Members of the  
Law and Legislation Committee

**Subject:** Legislative Position: Support SB 1319 relating to homeless dumping.

**Location/Council District:** Citywide

**Recommendation:**

Staff recommends that the Law and Legislation Committee adopt a support position on SB 1319 relating to homeless dumping.

**Contact:** Yvette Rincon, Legislative Analyst, 808-5827

**Presenters:** Yvette Rincon, Legislative Analyst

**Department:** City Manager's Office

**Division:** Government Affairs

**Organization No:** 0310

**Summary:**

This report provides information on SB 1319, authored by Senator Gilbert Cedillo, which would prohibit public agencies from releasing a person from their custody into a location for the purpose of removing the person from a specific neighborhood, city, county or jurisdiction. This bill would authorize a civil action and civil penalty against the agency in the amount of \$10,000 per violation and attorney's fees to be awarded to the prevailing plaintiff.

**Committee/Commission Action:**

None.

**Background Information:**

In December of 2005, the full Council approved and provided direction to staff on the conceptual approach to the Ten Year Plan to End Chronic Homelessness in the City and County of Sacramento. The purpose of the plan is to provide housing and support services to end chronic homelessness in the City and County of Sacramento. SB 1319



attempts to address the problem of surrounding communities dumping homeless persons into surrounding communities. This bill would benefit the City of Sacramento by creating a legal disincentive to local agencies for dumping their homeless population in the City of Sacramento.

### SB 1319 Major Provisions

SB 1319 prohibits a hospital, medical facility, or law enforcement agency from transporting or providing transportation to a person who is in need of homeless support services to a homeless service provider or shelter unless each of the following apply:

- The person agrees to be transported.
- The agency transports or provides transportation for the person directly to the homeless service provider for immediate enrollment.
- The homeless service provider confirms there is available space for the person to be transported.

This bill also requires that where there is reasonable cause to believe that a hospital, medical facility, or law enforcement agency, or an employee or faculty of these agencies, violated the above provisions, the Attorney General, any district attorney, or city attorney, or any person aggrieved by the violation, is authorized to bring a civil action against the agency or facility, or the employee of the agency that violated the provisions. The agency, faculty, or employee is subject to a civil penalty of up to ten thousand dollars (\$10,000) per violation. A prevailing plaintiff may also be awarded attorney's fees and costs.

The Police Department, Neighborhood Services Department, and SHRA have all reviewed this bill and are in support of staff's recommendation.

### **Financial Considerations:**

To the extent this legislation prevents homeless dumping in the City, the City will have more resources available to provide its homeless population.

### **Environmental Considerations:**

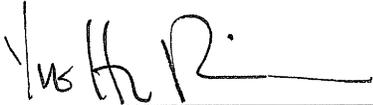
None.

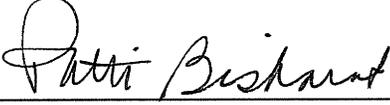
### **Policy Considerations:**

Staff's recommended support of SB 1319 (Cedillo) is consistent with the City's interest in dealing with the chronic homelessness issue. SB 1319 will provide a legal disincentive to local agencies for relocating or dumping their homeless population. It will also hold local agencies accountable and force them to provide services to their homeless population.

**Emerging Small Business Development (ESBD):**

None.

Respectfully Submitted by:   
Yvette Rincon, Legislative Analyst

Approved by:   
Patti Bisharat  
Director of Government Affairs

Recommendation Approved:

  
GUSTAVO F. VINA  
Assistant City Manager

Table of Contents:

Pg	1-3	Report
Pg	4	Draft Letter to Author
Pg	5-8	Bill Text

April 18, 2006

Honorable Gilbert Cedillo  
California State Senate  
State Capitol  
Sacramento, CA 95814

**Support: Senate Bill 1319 Relating to Homeless Dumping**

Dear Senator Cedillo:

On behalf of the City of Sacramento, I am pleased to express the City's support of Senate Bill 1319 relating to homeless dumping. We believe SB 1319 will provide a legal disincentive to local agencies for relocating or dumping their homeless population. It will also hold local agencies accountable and force them to provide services to their homeless population. The City of Sacramento is very aware of the homeless problems in its jurisdiction and will be adopting a ten-year plan to end its chronic homelessness.

Thank you for introducing this important piece of legislation.

Sincerely,

Lauren Hammond, Chair  
Law and Legislation Committee

cc: Senator David Cox  
Senator Deborah Ortiz  
Assembly Member Dave Jones  
Assembly Member Alan Nakanishi  
Assembly Member Roger Niello

AMENDED IN SENATE MARCH 28, 2006  
AMENDED IN SENATE MARCH 20, 2006

**SENATE BILL**

**No. 1319**

---

**Introduced by Senator Cedillo**

February 16, 2006

---

An act to add Section 131.9 to the Health and Safety Code and to add Section 851.91 to the Penal Code, relating to ~~criminal procedure~~: *civil actions*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as amended, Cedillo. Criminal procedure: release from custody in jail.

Existing law generally regulates the conditions of arrest and release from custody.

This bill would state findings and declarations of the Legislature relative to "homeless dumping," as defined.

This bill would prohibit public agencies, as defined, from releasing a person from their custody into a location for the purpose of removing the person from a specific neighborhood, city, county or jurisdiction. This bill would authorize a civil action against the agency for preventive relief, as specified. This bill would also authorize a civil penalty against the agency in the amount of \$10,000 per violation and attorney's fees to be awarded to the prevailing plaintiff.

By imposing additional duties on local agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares the  
2 following:

3 (a) Many cities and local arresting agencies transport persons  
4 in need of drug treatment, mental health, or homeless support  
5 services to other jurisdictions because of the presence of service  
6 providers, regardless of available treatment beds.

7 (b) The act of transporting those persons in need to the streets  
8 where service providers are present without confirming the  
9 availability of services is known as “homeless dumping.”

10 SEC. 2. ~~Section 851.91 is added to the Penal Code, to read:~~

11 ~~851.91. No public agency, including, but not limited to, a law~~  
12 ~~enforcement agency, public hospital, or any person employed by~~  
13 ~~the agency, who has custody of a person shall release the person~~  
14 ~~from custody into a location for the purpose of removing that~~  
15 ~~person from a specific neighborhood, city, county or jurisdiction,~~  
16 ~~either temporarily or permanently, unless otherwise required by~~  
17 ~~law. Whenever there is reasonable cause to believe a public~~  
18 ~~agency, or employee of the agency, is engaged in a pattern or~~  
19 ~~practice of releasing persons from the agency’s custody for the~~  
20 ~~purpose of removing the person from a specific neighborhood,~~  
21 ~~city, county, or jurisdiction, either temporarily or permanently,~~  
22 ~~the Attorney General, any district attorney, or city attorney, or~~  
23 ~~any person aggrieved by this practice is authorized to bring a~~  
24 ~~civil action in the appropriate court requesting preventive relief,~~  
25 ~~including an application for a permanent or temporary injunction,~~  
26 ~~restraining order, or other order against the public agency or~~  
27 ~~public employee engaged in the pattern or practice. A public~~  
28 ~~agency or employee who violates this section may also be subject~~  
29 ~~to a civil penalty of up to ten thousand dollars (\$10,000) per~~  
30 ~~violation. The civil penalties collected pursuant to this section~~  
31 ~~shall be paid to the agency or individual bringing the action. A~~

1 ~~prevailing plaintiff may also be awarded attorney's fees and~~  
2 ~~costs.~~

3 *SEC. 2. Section 1317.9 is added to the Health and Safety*  
4 *Code, to read:*

5 *1317.9. (a) No hospital or medical facility may transport or*  
6 *provide transportation to a person who is in need of homeless*  
7 *support services to a homeless service provider or shelter unless*  
8 *each of the following apply:*

9 *(1) The person agrees to be transported.*

10 *(2) The agency transports or provides transportation for the*  
11 *person directly to the homeless service provider for immediate*  
12 *enrollment.*

13 *(3) The homeless service provider confirms there is available*  
14 *space for the person to be transported.*

15 *(b) Whenever there is reasonable cause to believe that a*  
16 *hospital or medical facility, or an employee of the hospital or*  
17 *facility, violated this section, the Attorney General, any district*  
18 *attorney, or city attorney, or any person aggrieved by the*  
19 *violation, is authorized to bring a civil action in the appropriate*  
20 *court requesting preventive relief, including an application for a*  
21 *permanent or temporary injunction, restraining order, or other*  
22 *order against the hospital or facility, or the employee of the*  
23 *hospital or facility that violated this section. A hospital or*  
24 *facility, or an employee of the hospital or facility which violates*  
25 *this section is subject to a civil penalty of up to ten thousand*  
26 *dollars (\$10,000) per violation. Any civil penalty assessed*  
27 *pursuant to this section shall be paid to the agency or person*  
28 *bringing the action. A prevailing plaintiff may also be awarded*  
29 *attorney's fees and costs.*

30 *SEC. 3. Section 851.91 is added to the Penal Code, to read:*

31 *851.91. (a) No law enforcement agency may transport or*  
32 *provide transportation to a person who is in need of homeless*  
33 *support services to a homeless service provider or shelter unless*  
34 *each of the following apply:*

35 *(1) The person agrees to be transported.*

36 *(2) The agency transports or provides transportation for the*  
37 *person directly to the homeless service provider for immediate*  
38 *enrollment.*

39 *(3) The homeless service provider confirms there is available*  
40 *space for the person to be transported.*

1 (4) The law enforcement agency transports the person to the  
2 receiving area of the service provider for the purpose of  
3 enrollment.

4 (b) Whenever there is reasonable cause to believe that a law  
5 enforcement agency, or an employee of the law enforcement  
6 agency, violated this section, the Attorney General, any district  
7 attorney, or city attorney, or any person aggrieved by the  
8 violation, is authorized to bring a civil action in the appropriate  
9 court requesting preventive relief, including an application for a  
10 permanent or temporary injunction, restraining order, or other  
11 order against the law enforcement agency, or the employee of the  
12 law enforcement agency that violated this section. A law  
13 enforcement agency, or an employee of the law enforcement  
14 agency which violates this section is subject to a civil penalty of  
15 up to ten thousand dollars (\$10,000) per violation. Any civil  
16 penalty assessed pursuant to this section shall be paid to the  
17 agency or person bringing the action. A prevailing plaintiff may  
18 also be awarded attorney's fees and costs.

19 ~~SEC. 3.~~

20 SEC. 4. If the Commission on State Mandates determines that  
21 this act contains costs mandated by the state, reimbursement to  
22 local agencies and school districts for those costs shall be made  
23 pursuant to Part 7 (commencing with Section 17500) of Division  
24 4 of Title 2 of the Government Code.