

Senate Bill No. 768

CHAPTER 476

An act to add Section 1732.8 to the Welfare and Institutions Code, relating to prisons.

[Approved by Governor October 3, 2001. Filed with Secretary of State October 4, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 768, McPherson. Prisons.

Existing law creates the Department of the Youth Authority within the Youth and Adult Correctional Agency. Existing law generally commits to the Department of the Youth Authority any person convicted of a public offense who, among other things, is found to be less than 21 years of age at the time of apprehension and who has not been sentenced to specified crimes. Under existing law, the Youth Authority shall accept a person committed to it if it believes that the person can be materially benefited by its reformatory and educational discipline, and if it has adequate facilities to provide that care.

This bill would authorize the Director of the Youth Authority to transfer and cause to be confined within the custody of the Director of Corrections any person 18 years of age or older who is subject to the custody, control, and discipline of the Department of the Youth Authority and who is scheduled to be returned, or has been returned to the Department of the Youth Authority after serving a sentence imposed for a felony that was committed while he or she was in the custody of the Department of the Youth Authority. Under this bill, the person would not be transferred unless he or she voluntarily, intelligently, and knowingly executes a consent to the transfer, which would be irrevocable. Additionally, the person would be required to meet with a parole agent or appropriate Department of the Youth Authority staff member who would be required to explain specified matters to the person prior to his or her return to the Department of the Youth Authority. The bill also would require any person housed in an institution under the jurisdiction of the Department of Corrections pursuant to these provisions who has not attained a high school diploma or its equivalent to participate in educational or vocational programs, to the extent the appropriate programs are available.



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

SECTION 1. Section 1732.8 is added to the Welfare and Institutions Code, to read:

1732.8. (a) Notwithstanding any other law and subject to the provisions of this section, the Director of the Youth Authority may transfer to and cause to be confined within the custody of the Director of Corrections any person 18 years of age or older who is subject to the custody, control, and discipline of the Department of the Youth Authority and who is scheduled to be returned, or has been returned, to the Department of the Youth Authority from the Department of Corrections after serving a sentence imposed pursuant to Section 1170 of the Penal Code for a felony that was committed while he or she was in the custody of the Department of the Youth Authority.

(b) No person shall be transferred pursuant to this section until and unless the person voluntarily, intelligently, and knowingly executes a written consent to the transfer, which shall be irrevocable.

(c) Prior to being returned to the Youth Authority, a person in the custody of the Department of Corrections who is scheduled to be returned to the Department of the Youth Authority shall meet personally with a Youth Authority parole agent or other appropriate Department of the Youth Authority staff member. The parole agent or staff member shall explain, using language clearly understandable to the person, all of the following matters:

(1) What will be expected from the person when he or she returns to a Youth Authority institution in terms of cooperative daily living conduct and participation in applicable counseling, academic, vocational, work experience, or specialized programming.

(2) The conditions of parole applicable to the person, and how those conditions will be monitored and enforced while the person is in the custody of the Youth Authority.

(3) The person's right under this section to voluntarily and irrevocably consent to continue to be housed in an institution under the jurisdiction of the Department of Corrections instead of being returned to the Youth Authority.

(d) A person who has been returned to the Youth Authority after serving a sentence described in subdivision (a) may be transferred to the custody of the Department of Corrections if the person consents to the transfer after having been provided with the explanations described in subdivision (c).

(e) If a Youth Authority person consents to being housed in an institution under the jurisdiction of the Department of Corrections pursuant to this section, he or she shall be subject to the general rules and



regulations of the Department of Corrections. The Youthful Offender Parole Board shall continue to determine the person's eligibility for parole at the same intervals, in the same manner, and under the same standards and criteria that would be applicable if the person were confined in the Department of the Youth Authority. However, the board shall not order or recommend any treatment, education, or other programming that is unavailable in the institution where the person is housed, and shall not deny parole to a person housed in the institution based solely on the person's failure to participate in programs unavailable to the person.

(f) Any person housed in an institution under the jurisdiction of the Department of Corrections pursuant to this section who has not attained a high school diploma or its equivalent shall participate in educational or vocational programs, to the extent the appropriate programs are available.

(g) Upon notification by the Director of Corrections that the person should be no longer be housed in an institution under its jurisdiction, the Department of the Youth Authority shall immediately send for, take, and receive the person back into an institution under its jurisdiction.

