

AMENDED IN SENATE JUNE 4, 2001

AMENDED IN SENATE MAY 1, 2001

SENATE BILL

No. 778

Introduced by Senator Burton

February 23, 2001

An act to amend Sections 3041 and 5075 of the Penal Code, relating to the Board of Prison Terms, *and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 778, as amended, Burton. Board of Prison Terms.

Existing law provides that the Board of Prison Terms, composed of 9 commissioners, generally has the power to grant, deny, revoke, or suspend the parole of inmates, and to place conditions on the granting of that parole, as specified.

Existing law requires that in the case of any prisoner sentenced pursuant to any provision of law, except as specified, the Board of Prison Terms meet with each inmate during the 3rd year of incarceration for the purposes of reviewing the inmate's file, making recommendations, and documenting activities and conduct pertinent to granting or withholding postconviction credit. One year prior to the inmate's minimum eligible parole release date a panel consisting of at least 2 commissioners of the Board of Prison Terms is required *to* again meet with the inmate and to set a parole release date, as specified.

This bill would authorize, notwithstanding the above provision, on an emergency basis, and only until December 31, 2003, life parole consideration hearings or life rescission hearings to be conducted by 2 person panels consisting of at least one commissioner in order to allow

the board to increase the number of hearings conducted each month to eliminate the backlog of inmates awaiting a parole consideration hearing. This bill would also require that each commissioner participate in at least ~~6~~ 24 hearings each work ~~day~~ week, except as specified.

This bill would also direct the State Personnel Board to conduct an investigation and review of the Board of Prison Terms, with particular emphasis on the Deputy Commissioner classification, and to prepare a report regarding the review.

This bill would also appropriate \$31,743,000 for support of the Board of Prison Terms in augmentation of the Budget Act of 2001.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ 2/3. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 3041 of the Penal Code is amended to
 2 read:
 3 3041. (a) In the case of any prisoner sentenced pursuant to
 4 any provision of law, other than Chapter 4.5 (commencing with
 5 Section 1170) of Title 7 of Part 2, the Board of Prison Terms shall
 6 meet with each inmate during the third year of incarceration for the
 7 purposes of reviewing the inmate’s file, making
 8 recommendations, and documenting activities and conduct
 9 pertinent to granting or withholding post-conviction credit. One
 10 year prior to the inmate’s minimum eligible parole release date a
 11 panel consisting of at least two commissioners of the Board of
 12 Prison Terms shall again meet with the inmate and shall normally
 13 set a parole release date as provided in Section 3041.5. The release
 14 date shall be set in a manner that will provide uniform terms for
 15 offenses of similar gravity and magnitude in respect to their threat
 16 to the public, and that will comply with the sentencing rules that
 17 the Judicial Council may issue and any sentencing information
 18 relevant to the setting of parole release dates. The board shall
 19 establish criteria for the setting of parole release dates and in doing
 20 so shall consider the number of victims of the crime for which the
 21 prisoner was sentenced and other factors in mitigation or
 22 aggravation of the crime. At least one commissioner of the panel
 23 shall have been present at the last preceding meeting, unless it is



1 not feasible to do so or where the last preceding meeting was the
2 initial meeting. Any person on the hearing panel may request
3 review of any decision regarding parole to the full board for an en
4 banc hearing. In case of ~~such~~ a review, a majority vote of the full
5 Board of Prison Terms in favor of parole is required to grant parole
6 to any prisoner.

7 (b) The panel or board shall set a release date unless it
8 determines that the gravity of the current convicted offense or
9 offenses, or the timing and gravity of current or past convicted
10 offense or offenses, is such that consideration of the public safety
11 requires a more lengthy period of incarceration for this individual,
12 and that a parole date, therefore, cannot be fixed at this meeting.

13 (c) For the purpose of reviewing the suitability for parole of
14 those prisoners eligible for parole under prior law at a date earlier
15 than that calculated under Section 1170.2, the board shall appoint
16 panels of at least two persons to meet annually with each ~~such~~
17 prisoner until ~~such~~ *the* time as the person is released pursuant to
18 ~~such~~ proceedings or reaches the expiration of his *or her* term as
19 calculated under Section 1170.2.

20 (d) Notwithstanding subdivision (a), on an emergency basis,
21 and only until December 31, 2003, life parole consideration
22 hearings or life rescission hearings may be conducted by two
23 person panels consisting of at least one commissioner. In the event
24 of a tie vote, the matter shall be referred to the full board for a
25 decision. It is the intent of the Legislature in enacting this
26 subdivision to allow the board to increase the number of hearings
27 conducted each month to eliminate the backlog of inmates
28 awaiting a parole consideration hearing.

29 SEC. 2. Section 5075 of the Penal Code is amended to read:

30 5075. (a) The Board of Prison Terms shall be composed of
31 nine commissioners, each of whom shall be appointed by the
32 Governor, with the advice and consent of the Senate, for a term of
33 four years and until the appointment and qualification of his *or her*
34 successor. Commissioners shall be eligible for reappointment.

35 (b) The ~~chairman~~ *chair* of the board shall be designated by the
36 Governor from time to time. The ~~chairman~~ *chair* shall be the
37 administrative head of the board and shall exercise all duties and
38 functions necessary to insure that the responsibilities of the board
39 are successfully discharged. He *or she* shall be the appointing
40 authority for all civil service positions of employment in the board.



1 (c) The terms of the commissioners shall expire as follows: two
 2 on March 15, 1978, two on March 15, 1979, two on March 15,
 3 1980, and three on March 15, 1981. Successor commissioners
 4 shall hold office for terms of four years, each term to commence
 5 on the expiration date of the term of the predecessor. The Governor
 6 shall fill every vacancy for the balance of the unexpired term. The
 7 selection of persons and their appointment by the Governor and
 8 confirmation by the Senate shall reflect as nearly as possible a
 9 cross-section of the racial, sexual, economic, and geographic
 10 features of the population of the state.

11 It is the further intent of this section that the board shall adopt
 12 ~~such~~ policies and practices as will permit continuing operations
 13 and improvements without any further increase in the number of
 14 its commissioners.

15 (d) Each commissioner shall participate in at least ~~six~~ 24
 16 hearings each work week. *Hearings shall be conducted each day,*
 17 *except when it is necessary for a commissioner to attend training,*
 18 *en banc hearings, or other administrative business requiring the*
 19 *participation of the commissioner. For purposes of this*
 20 *subdivision, these hearings shall include parole documentation*
 21 *hearings, parole consideration hearings, parole rescission*
 22 *hearings, parole progress hearings, mentally disordered offender*
 23 *hearings, and sexually violent predator hearings.*

24 *SEC. 3. Pursuant to Section 18670 of the Government Code,*
 25 *the State Personnel Board shall conduct an investigation and*
 26 *quality assurance review of the personnel practices of the Board*
 27 *of Prison Terms, with particular emphasis on the Deputy*
 28 *Commissioner classification, including, but not limited to, hiring,*
 29 *transfers, promotions, and adverse actions. The State Personnel*
 30 *Board shall complete the investigation and review and report to the*
 31 *Chair of the Senate Rules Committee, the Speaker of the Assembly,*
 32 *and the Governor on or before December 1, 2001.*

33 *SEC. 4. There is hereby appropriated from the General Fund*
 34 *thirty-one million seven hundred forty-three thousand dollars*
 35 *(\$31,743,000) in augmentation of Item 5440-001-0001 of the*
 36 *Budget Act of 2001 for support of the Board of Prison Terms*
 37 *according to the following:*
 38



1	5440-001-0001—For support of the Board of Prison	
2	Terms	31,743,000
3	Schedule:	
4	(1) Program 10	31,836,000
5	(2) Reimbursements	-93,000

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7 *The funds appropriated pursuant to this section shall only be*
 8 *available for expenditure during the 2001-02 fiscal year beginning*
 9 *July 1, 2001, and ending June 30, 2002.*

10 *SEC. 5. This act is an urgency statute necessary for the*
 11 *immediate preservation of the public peace, health, or safety*
 12 *within the meaning of Article IV of the Constitution and shall go*
 13 *into immediate effect. The facts constituting the necessity are:*

14 *In order for the Legislature to appropriate funds for the*
 15 *operation of the Board of Prison Terms during the 2001-02 fiscal*
 16 *year, and to reduce the backlog of cases awaiting a parole*
 17 *consideration hearing, this act must go into effect immediately.*

