

AMENDED IN SENATE JUNE 30, 2004

AMENDED IN SENATE JUNE 8, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1530

Introduced by Assembly Member Negrete McLeod
(*Coauthor: Senator Romero*)

February 21, 2003

An act to amend Sections 3412, 3417, 3418, and 3419 of the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1530, as amended, Negrete McLeod. Prisoners: community treatment program.

Existing law requires the Department of Corrections to establish and implement a community treatment program under which women inmates sentenced to state prison who have one or more children under the age of 6 years shall be eligible for release with their children to a public or private facility in the community suitable to their needs. Existing law provides that the Department of Corrections may, in its discretion, and if there is space available, admit a pregnant inmate meeting admission criteria. Existing law also requires the department to provide pediatric care to children residing in a community treatment program.

This bill would provide that the Department of Corrections shall admit to the program any applicant who meets admission criteria, as specified, whose child was born prior to her incarceration, or who is pregnant. This bill would ~~also~~ *require the Department of Corrections*

to ensure that mothers and children residing in community treatment programs have access to and assistance in participating in available local Head Start, Healthy Start, and programs for childhood development under the California Children and Families Program, *but the bill would provide, in addition, that nothing in its provisions shall be construed as granting or requiring preferential access or enrollment for children of incarcerated mothers to any of the specified programs.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 3412 of the Penal Code is amended to
2 read:

3 3412. (a) The Department of Corrections shall provide
4 pediatric care consistent with medical standards and, to the extent
5 feasible, shall be guided by the need to provide the following:

6 (1) A stable, caregiving, stimulating environment for the
7 children as developed and supervised by professional guidance in
8 the area of child development.

9 (2) Programs geared to assure the stability of the parent-child
10 relationship during and after participation in the program, to be
11 developed and supervised by appropriate professional guidance.
12 These programs shall, at a minimum, be geared to accomplish the
13 following:

14 (A) The mother’s mental stability.

15 (B) The mother’s familiarity with good parenting and
16 housekeeping skills.

17 (C) The mother’s ability to function in the community, upon
18 parole or release, as a viable member.

19 (D) The securing of adequate housing arrangements after
20 participation in the program.

21 (E) The securing of adequate child care arrangements after
22 participation in the program.

23 (3) Utilization of the least restrictive alternative to
24 incarceration and restraint possible to achieve the objectives of
25 correction and of this chapter consistent with public safety and
26 justice.

27 (b) (1) The Department of Corrections shall ensure that the
28 children and mothers residing in a community treatment program



1 have access to, and are permitted by the community treatment
2 program to participate in, available local Head Start, Healthy Start,
3 and programs for early childhood development pursuant to the
4 California Children and Families Program (Division 108
5 (commencing with Section 130100) of the Health and Safety
6 Code).

7 (2) The community treatment program shall provide each
8 mother with written information about the available local
9 programs, including the telephone numbers for enrolling a child
10 in a program.

11 (3) The community treatment program shall also provide
12 transportation to program services and otherwise assist and
13 facilitate enrollment and participation for eligible children.

14 (4) *Nothing in this subdivision shall be construed as granting*
15 *or requiring preferential access or enrollment for children of*
16 *incarcerated mothers to any of the programs specified in this*
17 *subdivision.*

18 SEC. 2. Section 3417 of the Penal Code is amended to read:

19 3417. (a) Subject to reasonable rules and regulations adopted
20 pursuant to Section 3414, the Department of Corrections shall
21 admit to the program any applicant whose child was born prior to
22 the receipt of the inmate by the department, whose child was born
23 after the receipt of the inmate by the department, or who is
24 pregnant, if all of the following requirements are met:

25 (1) The applicant has a probable release or parole date with a
26 maximum time to be served of six years, calculated after deduction
27 of any possible good time credit.

28 (2) The applicant was the primary caretaker of the infant prior
29 to incarceration. "Primary caretaker" as used in this chapter
30 means a parent who has consistently assumed responsibility for the
31 housing, health, and safety of the child prior to incarceration. A
32 parent who, in the best interests of the child, has arranged for
33 temporary care for the child in the home of a relative or other
34 responsible adult shall not for that reason be excluded from the
35 category, "primary caretaker."

36 (3) The applicant had not been found to be an unfit parent in any
37 court proceeding. An inmate applicant whose child has been
38 declared a dependent of the juvenile court pursuant to Section 300
39 of the Welfare and Institutions Code shall be admitted to the
40 program only after the court has found that participation in the



1 program is in the child's best interest and that it meets the needs
2 of the parent and child pursuant to paragraph (3) of subdivision (e)
3 of Section 361.5 of the Welfare and Institutions Code. The fact that
4 an inmate applicant's child has been found to come within Section
5 300 of the Welfare and Institutions Code shall not, in and of itself,
6 be grounds for denying the applicant the opportunity to participate
7 in the program.

8 (b) The Department of Corrections shall deny placement in the
9 community treatment program if it determines that an inmate
10 would pose an unreasonable risk to the public, or if any one of the
11 following factors exist, except in unusual circumstances or if
12 mitigating circumstances exist, including, but not limited to, the
13 remoteness in time of the commission of the offense:

14 (1) The inmate has been convicted of any of the following:

15 (A) A sex offense listed in Section 667.6.

16 (B) A sex offense requiring registration pursuant to Section
17 290.

18 (C) A violent offense listed in subdivision (c) of Section 667.5.

19 (D) Arson as defined in Sections 450 to 455, inclusive.

20 (E) The unlawful sale or possession for sale, manufacture, or
21 transportation of controlled substances as defined in Chapter 6
22 (commencing with Section 11350) of Division 10 of the Health
23 and Safety Code, if large scale for profit as defined by the
24 department.

25 (2) There is probability the inmate may abscond from the
26 program as evidenced by any of the following:

27 (A) A conviction of escape, of aiding another person to escape,
28 or of an attempt to escape from a jail or prison.

29 (B) The presence of an active detainer from a law enforcement
30 agency, unless the detainer is based solely upon warrants issued for
31 failure to appear on misdemeanor Vehicle Code violations.

32 (3) It is probable the inmate's conduct in a community facility
33 will be adverse to herself or other participants in the program, as
34 determined by the Director of Corrections or as evidenced by any
35 of the following:

36 (A) The inmate's removal from a community program which
37 resulted from violation of state laws, rules, or regulations
38 governing Department of Corrections' inmates.

39 (B) A finding of the inmate's guilt of a serious rule violation,
40 as defined by the Director of Corrections, which resulted in a credit



1 loss on one occasion of 91 or more days or in a credit loss on more
2 than one occasion of 31 days or more and the credit has not been
3 restored.

4 (C) A current written opinion of a staff physician or
5 psychiatrist that the inmate's medical or psychiatric condition is
6 likely to cause an adverse effect upon the inmate or upon other
7 persons if the inmate is placed in the program.

8 (c) Nothing in this section shall be interpreted to limit the
9 discretion of the Director of Corrections to deny or approve
10 placement when subdivision (b) does not apply.

11 (d) The Department of Corrections shall determine if the
12 applicant meets the requirements of this section within 30 days of
13 the parent's application to the program. The department shall
14 establish an appeal procedure for the applicant to appeal an adverse
15 decision by the department.

16 SEC. 3. Section 3418 of the Penal Code is amended to read:

17 3418. (a) In the case of any inmate who gave birth to a child
18 after the date of sentencing, and in the case of any inmate who gave
19 birth to a child prior to that date and meets the requirements of
20 Section 3417 but has not yet made application for admission to a
21 program, the department shall, at the earliest possible date, but in
22 no case later than the birth of the child, or the receipt of the inmate
23 to the custody of the Department of Corrections, as the case may
24 be, notify the inmate of the provisions of this chapter and provide
25 her with a written application for the program described in this
26 chapter.

27 (b) The notice provided by the department shall contain, but
28 need not be limited to, guidelines for qualification for, and the
29 timeframe for application to, the program and the process for
30 appealing a denial of admittance.

31 SEC. 4. Section 3419 of the Penal Code is amended to read:

32 3419. (a) In the case of any inmate who gives birth after her
33 receipt by the Department of Corrections, the department shall,
34 subject to reasonable rules and regulations promulgated pursuant
35 to Section 3414, provide notice of, and a written application for,
36 the program described in this chapter, and upon her request,
37 declare the inmate eligible to participate in a program pursuant to
38 this chapter if all of the requirements of Section 3417 are met.

39 (b) The notice provided by the department shall contain, but
40 need not be limited to, guidelines for qualification for, and the



- 1 timeframe for application to, the program and the process for
- 2 appealing a denial of admittance.

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