

AMENDED IN SENATE MAY 11, 2005
AMENDED IN SENATE APRIL 21, 2005

SENATE BILL

No. 901

Introduced by Senator Denham

February 22, 2005

An act relating to state prisons to amend Sections 1202a, 3600, 3602, and 3603 of, and to add Section 3603.5 to, the Penal Code, relating to prisons, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 901, as amended, Denham. Prisons.

Existing law establishes a system of state prisons.

~~This bill would express the intent of the Legislature relative to the decommissioning and redevelopment of San Quentin State Prison.~~

This bill would establish requirements for the decommissioning and redevelopment of San Quentin State Prison. Decommissioning would be required to be completed not later than December 31, 2010. The bill would also authorize the Governor to designate which state prison would house condemned inmates.

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

Vote: ~~majority~~^{2/3}. 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 1202a of the Penal Code is amended to
2 read:

1 1202a. If the judgment is for imprisonment in the state prison
2 the judgment shall direct that the defendant be delivered into the
3 custody of the Director of Corrections at the state prison or
4 institution designated by the Director of Corrections as the place
5 for the reception of persons convicted of felonies, except where
6 the judgment is for death in which case the defendant shall be
7 taken to the warden of the ~~California State Prison at San Quentin~~
8 *prison designated for executions pursuant to Section 3603.5.*

9 ~~Unless a different place or places are so designated by the~~
10 ~~Director of Corrections, the judgment shall direct that the~~
11 ~~defendant be delivered into the custody of the Director of~~
12 ~~Corrections at the California State Prison at San Quentin. The~~
13 ~~Director of Corrections shall designate a place or places for the~~
14 ~~reception of persons convicted of felonies by order, which order~~
15 ~~or orders shall be served by registered mail, return receipt~~
16 ~~requested, upon each judge of each superior court in the state.~~
17 ~~The Director of Corrections may change the place or places of~~
18 ~~commitment by the issuance of a new order. Nothing contained~~
19 ~~in this section affects any provision of Section 3400.~~

20 *SEC. 2. Section 3600 of the Penal Code is amended to read:*

21 3600. (a) Every male person, upon whom has been imposed
22 the judgment of death, shall be delivered to the warden of the
23 California state prison designated by the ~~department~~ *Governor*
24 for the execution of the death penalty, there to be kept until the
25 execution of the judgment, except as provided in subdivision (b).

26 (b) Notwithstanding any other provision of law:

27 (1) A condemned inmate who, while in prison, commits any of
28 the following offenses, or who, as a member of a gang or
29 disruptive group, orders others to commit any of these offenses,
30 may, following disciplinary sanctions and classification actions
31 at ~~San Quentin State Prison~~ *that prison*, pursuant to regulations
32 established by the Department of Corrections, be housed in
33 secure condemned housing designated by the Director of
34 Corrections, at the California State Prison, Sacramento:

35 (A) Homicide.

36 (B) Assault with a weapon or with physical force capable of
37 causing serious or mortal injury.

38 (C) Escape with force or attempted escape with force.

39 (D) Repeated serious rules violations that substantially
40 threaten safety or security.

1 (2) The condemned housing program at California State
2 Prison, Sacramento, shall be fully operational prior to the transfer
3 of any condemned inmate.

4 (3) Specialized training protocols for supervising condemned
5 inmates shall be provided to those line staff and supervisors at
6 the California State Prison, Sacramento, who supervise
7 condemned inmates on a regular basis.

8 (4) An inmate whose medical or mental health needs are so
9 critical as to endanger the inmate or others may, pursuant to
10 regulations established by the Department of Corrections, be
11 housed at the California Medical Facility or other appropriate
12 institution for medical or mental health treatment. The inmate
13 shall be returned to the institution from which the inmate was
14 transferred when the condition has been adequately treated or is
15 in remission.

16 (c) When housed pursuant to subdivision (b) the following
17 shall apply:

18 (1) Those local procedures relating to privileges and
19 classification procedures provided to Grade B condemned
20 inmates ~~at San Quentin State Prison~~ shall be similarly instituted
21 at California State Prison, Sacramento, for condemned inmates
22 housed pursuant to paragraph (1) of subdivision (b) of Section
23 3600. Those classification procedures shall include the right to
24 the review of a classification no less than every 90 days and the
25 opportunity to petition for a return to ~~San Quentin State Prison~~
26 *the prison from which the inmate was transferred.*

27 (2) Similar attorney-client access procedures that are afforded
28 to condemned inmates housed *or formerly housed* at San Quentin
29 State Prison shall be afforded to condemned inmates housed in
30 secure condemned housing designated by the Director of
31 Corrections, at the California State Prison, Sacramento.
32 Attorney-client access for condemned inmates housed at an
33 institution for medical or mental health treatment shall be
34 commensurate with the institution's visiting procedures and
35 appropriate treatment protocols.

36 (3) A condemned inmate housed in secure condemned housing
37 pursuant to subdivision (b) shall be returned to ~~San Quentin State~~
38 ~~Prison~~ *the prison from which the inmate was transferred* at least
39 60 days prior to his scheduled date of execution.

1 (4) No more than 15 condemned inmates may be rehoused
2 pursuant to paragraph (1) of subdivision (b).

3 (d) Prior to any relocation of condemned row from San
4 Quentin State Prison, whether proposed through legislation or
5 any other means, all maximum security Level IV, 180-degree
6 housing unit facilities with an electrified perimeter shall be
7 evaluated by the Department of Corrections for suitability for the
8 secure housing and execution of condemned inmates.

9 *SEC. 3. Section 3602 of the Penal Code is amended to read:*

10 3602. Upon the affirmance of her appeal, the female person
11 sentenced to death shall thereafter be delivered to the warden of
12 the California state prison designated by the ~~department~~
13 *Governor* for the execution of the death penalty, not earlier than
14 three days before the day upon which judgment is to be executed;
15 provided, however, that in the event of a commutation of
16 sentence said female prisoner shall be returned to the California
17 Institution for Women, there to be confined pursuant to such
18 commutation.

19 *SEC. 4. Section 3603 of the Penal Code is amended to read:*

20 3603. The judgment of death shall be executed within the
21 walls of the California State Prison at San Quentin, *until the*
22 *Governor designates a different state prison facility for that*
23 *purpose, pursuant to Section 3603.5.*

24 *SEC. 5. Section 3603.5 is added to the Penal Code, to read:*

25 3603.5. (a) *The California State Prison at San Quentin shall*
26 *be decommissioned no later than December 31, 2010.*
27 *Commencing January 1, 2010, all death-row prisoners be*
28 *housed, and executions carried out, in a state prison other than*
29 *San Quentin. All non-death-row prisoners shall be moved out of*
30 *San Quentin by June 30, 2010.*

31 (b) *The Governor, after consulting with members of his*
32 *cabinet, legislative leaders of both parties, and local government*
33 *officials, make a decision no later than March 31, 2007,*
34 *regarding which prison shall house death row prisoners and be*
35 *the site of executions.*

36 (c) *The building of a new death row and execution site is*
37 *exempt from the California Environmental Quality Act. Bids on*
38 *building a new death row and execution site shall be taken*
39 *beginning September 1, 2007, and closed March 31, 2008.*
40 *Construction on death row shall begin immediately after*

1 *announcement of the winning bid and shall be completed no later*
2 *than June 30, 2009.*

3 *(d) The land upon which San Quentin sits shall be sold, the*
4 *proceeds be exempt from the provisions of Proposition 60a, if it*
5 *is approved by the voters, and shall go to building the new death*
6 *row at another prison. Bids on the purchase of San Quentin and*
7 *the land shall be taken beginning January 1, 2007, and be closed*
8 *December 31, 2007. Full payment of the purchase price shall be*
9 *due no later than June 30, 2008.*

10 *(e) The purchaser of San Quentin shall be responsible for*
11 *demolishing the prison and all lawful disposal of resulting*
12 *materials. The demolition of San Quentin and related activities is*
13 *exempted from the California Environmental Quality Act.*

14 *(f) The development of residential or commercial facilities, or*
15 *both, by the new owner of the site shall be exempted from the*
16 *California Environmental Quality Act, provided however, that no*
17 *industrial development will be permitted at the site.*

18 *SEC. 6. This act is an urgency statute necessary for the*
19 *immediate preservation of the public peace, health, or safety*
20 *within the meaning of Article IV of the Constitution and shall go*
21 *into immediate effect. The facts constituting the necessity are:*

22 *In order to ensure the orderly administration of justice and*
23 *promote public safety in regard to condemned inmates, it is*
24 *necessary that this act take effect immediately.*

25 ~~SECTION 1. It is the intent of the Legislature that:~~

26 ~~(a) The aging, deteriorating, and unsafe San Quentin State~~
27 ~~Prison be decommissioned no later than December 31, 2010.~~
28 ~~Commencing January 1, 2010, all death-row prisoners be housed,~~
29 ~~and executions carried out, in a state prison other than San~~
30 ~~Quentin. All non-death-row prisoners be moved out of San~~
31 ~~Quentin by June 30, 2010.~~

32 ~~(b) The Governor, after consulting with members of his~~
33 ~~Cabinet, legislative leaders of both parties, and local government~~
34 ~~officials, make a decision no later than March 31, 2007,~~
35 ~~regarding which prison shall house death-row prisoners and be~~
36 ~~the site of executions.~~

37 ~~(c) The building of a new death row and execution site be~~
38 ~~exempt from the California Environmental Quality Act. Bids on~~
39 ~~building a new death row and execution site will be taken~~
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16 ~~both, by the new owner of the site will be exempted from the~~
17 ~~California Environmental Quality Act, provided however, that no~~
18 ~~industrial development will be permitted at the site.~~