

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1965

Introduced by Assembly Member Swanson

February 14, 2008

An act to add Section 3050 to the Penal Code, relating to prisons.

LEGISLATIVE COUNSEL'S DIGEST

AB 1965, as amended, Swanson. Prisoners: early release.

Under existing law, a state prisoner who is diagnosed with a disease that would produce death within 6 months or is permanently incapacitated and whose release is deemed not to threaten the public safety may have his or her sentence recalled and be resentenced. Existing law additionally sets forth grounds under which the court has discretion to find that a prisoner is eligible for resentencing or recall.

This bill would require the Department of Corrections and Rehabilitation to establish a program to allow prisoners who are at least 55 years of age, are incarcerated for a nonviolent offense, have a diagnosed chronic illness or disease that requires ongoing medical attention, have medical coverage, and meet other specified criteria to be released on ~~early~~ *summary parole, as specified.*

Existing law, added by initiative measure, provides that a person who is convicted of a felony, and who has one or more prior convictions of a serious or violent felony, as defined, shall not be awarded specified credits on his or her sentence that total more than 20% of the total term of imprisonment. That initiative measure provides that its provisions may be amended by a statute passed by a ²/₃ vote of both houses of the Legislature.

This bill would amend that initiative by authorizing the release from incarceration of a person who is convicted of a felony under its provisions after only 50% of the person’s sentence is served.

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. The Legislature finds and declares all of the
2 following:

3 (a) The number of older prisoners in California is increasing
4 exponentially. The Legislative Analyst’s Office estimates that by
5 2022, California will incarcerate more than 30,200 older prisoners,
6 which will comprise 16 percent of the total inmate population.

7 (b) The annual cost of incarcerating an older prisoner is
8 approximately three times that of a younger prisoner. In California,
9 the cost is one hundred thirty-eight thousand dollars (\$138,000)
10 per year per older prisoner.

11 (c) Recidivism rates are significantly lower for older prisoners
12 after they are released from prison, ranging from 2 percent to 10
13 percent, inclusive, compared to the current 70 percent for the
14 general prison population.

15 SEC. 2. Section 3050 is added to the Penal Code, to read:

16 3050. (a) The Department of Corrections and Rehabilitation
17 shall establish a program to allow older prisoners, who meet the
18 criteria set forth in subdivision (b), to apply for and be released
19 on parole.

20 (b) To be eligible for early release under the program, the inmate
21 shall meet all of the following criteria:

22 (1) Be at least 55 years of age.

23 (2) Have served at least 50 percent of his or her sentence
24 *including all credits earned pursuant to Section 2933.*

25 (3) Be incarcerated for a nonviolent offense and not have
26 committed any violent felony, as defined in subdivision (c) of
27 Section 667.5, or a sexual offense listed in subdivision (c) of
28 Section 290, while incarcerated.

29 (4) As determined by a physician, have a diagnosed chronic
30 illness or disease that requires ongoing medical attention, including,
31 but not limited to, high blood pressure, diabetes, hepatitis, or
32 acquired immune deficiency syndrome (AIDS).

1 (5) Can show proof of qualification for Medicare or Medi-Cal
2 or private family medical coverage.

3 ~~(e) The program shall include electronic home detention for~~
4 ~~prisoners who are released on early parole until the date when they~~
5 ~~would have otherwise been released on parole but for the program.~~

6 *(c) An inmate who is eligible under this program shall be*
7 *considered released on summary parole. An offender on summary*
8 *parole shall remain on supervised release and be subject to*
9 *searches by local law enforcement at any time, but may not be*
10 *returned to prison for a parole violation unless convicted of a new*
11 *crime.*

12 (d) The program shall also include a prerelease risk assessment
13 for each eligible inmate to ensure the inmate has a low risk of
14 reoffending and is not deemed a danger to society. The risk
15 ~~assessment shall be conducted by a prison psychologist, after~~
16 ~~consultation with the inmates' medical providers and physicians.~~
17 *assessment tool to determine eligibility shall use a validated*
18 *method that is approved by the department.*