

Introduced by Senator Denham

February 13, 2007

An act 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 228, as introduced, Denham. Prisons.

Existing law establishes a system of state prisons.

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, 2012. The bill would also authorize the Governor to designate which state prison would house condemned inmates.

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

Vote: $\frac{2}{3}$. 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:
3 1202a. If the judgment is for imprisonment in the state prison
4 the judgment shall direct that the defendant be delivered into the
5 custody of the Director of Corrections at the state prison or
6 institution designated by the Director of Corrections *and*
7 *rehabilitation* as the place for the reception of persons convicted
8 of felonies, except where the judgment is for death in which case

1 the defendant shall be taken to the warden of the ~~California State~~
2 ~~Prison at San Quentin~~ *prison designated for executions pursuant*
3 *to Section 3603.5.*

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

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

16 3600. (a) Every male person, upon whom has been imposed
17 the judgment of death, shall be delivered to the warden of the
18 California state prison designated by the ~~department~~ *Governor* for
19 the execution of the death penalty, there to be kept until the
20 execution of the judgment, except as provided in subdivision (b).

21 (b) Notwithstanding any other provision of law:

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

31 (A) Homicide.

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

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

35 (D) Repeated serious rules violations that substantially threaten
36 safety or security.

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

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

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

13 (c) When housed pursuant to subdivision (b) the following shall
14 apply:

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

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

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

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

39 (d) Prior to any relocation of condemned row from San Quentin
40 State Prison, whether proposed through legislation or any other

1 means, all maximum security Level IV, 180-degree housing unit
2 facilities with an electrified perimeter shall be evaluated by the
3 Department of Corrections *and Rehabilitation* for suitability for
4 the secure housing and execution of condemned inmates.

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

6 3602. Upon the affirmance of her appeal, the female person
7 sentenced to death shall thereafter be delivered to the warden of
8 the California state prison designated by the ~~department~~ *Governor*
9 for the execution of the death penalty, not earlier than three days
10 before the day upon which judgment is to be executed; ~~provided,~~
11 ~~however, that.~~ *However,* in the event of a commutation of sentence
12 ~~said,~~ *the* female prisoner shall be returned to the Central California
13 Women's Facility, ~~there~~ to be confined pursuant to ~~such~~ *the*
14 commutation.

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

16 3603. The judgment of death shall be executed within the walls
17 of the California State Prison at San Quentin, *until the Governor*
18 *designates a different state prison facility for that purpose,*
19 *pursuant to Section 3603.5.*

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

21 3603.5. (a) The California State Prison at San Quentin shall
22 be decommissioned no later than December 31, 2012. Commencing
23 January 1, 2012, all death-row prisoners shall be housed, and
24 executions carried out, in a state prison other than San Quentin.
25 All non-death-row prisoners shall be moved out of San Quentin
26 by June 30, 2012.

27 (b) The Governor, after consulting with members of his or her
28 cabinet, legislative leaders of both parties, and local government
29 officials, shall make a decision no later than March 31, 2009,
30 regarding which prison shall house death row prisoners and be the
31 site of executions.

32 (c) The building of a new death row and execution site is exempt
33 from the California Environmental Quality Act. Bids on building
34 a new death row and execution site shall be taken commencing on
35 September 1, 2009, and ending on March 31, 2010. Construction
36 on death row shall begin immediately after announcement of the
37 winning bid and shall be completed no later than June 30, 2011.

38 (d) The land upon which San Quentin sits shall be sold, the
39 proceeds shall be exempt from the provisions of Proposition 60a
40 of the November 2, 2004, statewide general election, and shall go

1 to building the new death row at another prison. Bids on the
2 purchase of San Quentin and the land shall be taken commencing
3 on January 1, 2009, and ending on December 31, 2009. Full
4 payment of the purchase price shall be due no later than June 30,
5 2010.

6 (e) The purchaser of San Quentin shall be responsible for
7 demolishing the prison and all lawful disposal of resulting
8 materials. The demolition of San Quentin and related activities is
9 exempted from the California Environmental Quality Act.

10 (f) The development of residential or commercial facilities, or
11 both, by the new owner of the site shall be exempted from the
12 California Environmental Quality Act, provided however, that no
13 industrial development will be permitted at the site.

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

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