

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1359**

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**Introduced by Assembly Member Huffman**

February 27, 2009

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An act to amend Sections 1202a, 3600, and 3700.5 of, and to repeal Sections 3601 and 3602 of, the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1359, as amended, Huffman. Death penalty prisoners.

Existing law requires a male defendant sentenced to death to be taken to the warden of the San Quentin State Prison. Existing law also provides that a condemned inmate may be housed at the California Medical Facility for medical or mental health treatment and may be housed at the California State Prison, Sacramento, for commission of specified offenses while in prison, and that in either case, he shall be subject to similar privileges and classifications as would be applied to him if he were housed at San Quentin State Prison. *Existing law provides that no more than 15 condemned inmates may be rehoused at the California State Prison, Sacramento, for the commission of specified offenses while in prison.*

This bill would make the above provisions applicable to both male and female defendants sentenced to death. The bill would also provide that a condemned inmate shall be housed in any state prison that contains level 4 security or is a condemned facility subject to similar privileges and classifications as would be applied to him or her if he or she were housed at San Quentin State Prison, as specified. *The bill would increase the number of condemned inmates that may be rehoused, as described above, at the California State Prison, Sacramento, from 15 to 30.*

The bill would also delete related provisions requiring female persons sentenced to death to be delivered to the warden of the Central California Women’s Facility.

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 1202a of the Penal Code is amended to  
2 read:

3 1202a. (a) If the judgment is for imprisonment in the state  
4 prison the judgment shall direct that the defendant be delivered  
5 into the custody of the Secretary of the Department of Corrections  
6 and Rehabilitation at the state prison or institution designated by  
7 the secretary as the place for the reception of persons convicted  
8 of felonies, except where the judgment is for death in which case  
9 the defendant shall be housed in a prison that contains level four  
10 security, or is a condemned facility, designated by the Secretary  
11 of the Department of Corrections and Rehabilitation.

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

23 (b) When a condemned inmate is housed in a level four prison  
24 pursuant to subdivision (a) the following shall apply:

25 (1) Local procedures relating to privileges and classification  
26 procedures provided to condemned inmates at San Quentin State  
27 Prison shall be similarly instituted at any level four prison for  
28 condemned inmates, housed at that prison. Those classification  
29 procedures shall include the right to review the classification no  
30 less than every 90 days and the opportunity to petition for a return  
31 to San Quentin State Prison.

1 (2) Similar attorney-client access procedures that are afforded  
2 to condemned inmates housed at San Quentin State Prison shall  
3 be afforded to condemned inmates housed in any level four prison.  
4 Attorney-client access for condemned inmates housed at an  
5 institution for medical or mental health treatment shall be  
6 commensurate with the institution's visiting procedures and  
7 appropriate treatment protocols.

8 (3) A condemned inmate housed in a level four prison pursuant  
9 to subdivision (a) shall be returned to San Quentin State Prison ~~at~~  
10 ~~least 60 days prior to his or her scheduled date of execution.~~ *at the*  
11 *time appellate counsel has been appointed for the condemned*  
12 *inmate's automatic appeal on the judgment of death.*

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

14 3600. (a) Every person, upon whom has been imposed the  
15 judgment of death, shall be delivered to the warden of the  
16 California state prison designated by the department for the  
17 execution of the death penalty, there to be kept until the execution  
18 of the judgment, except as provided in subdivision (b).

19 (b) Notwithstanding any other provision of law:

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

29 (A) Homicide.

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

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

33 (D) Repeated serious rules violations that substantially threaten  
34 safety or security.

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

38 (3) Specialized training protocols for supervising condemned  
39 inmates shall be provided to those line staff and supervisors at the

1 California State Prison, Sacramento, who supervise condemned  
2 inmates on a regular basis.

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

11 (c) When housed pursuant to subdivision (b) the following shall  
12 apply:

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

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

30 (3) A condemned inmate housed in secure condemned housing  
31 pursuant to subdivision (b) shall be returned to San Quentin State  
32 Prison at least 60 days prior to his scheduled date of execution.

33 (4) No more than ~~15~~ 30 condemned inmates may be rehoused  
34 pursuant to paragraph (1) of subdivision (b).

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

1 SEC. 3. Section 3601 of the Penal Code is repealed.

2 SEC. 4. Section 3602 of the Penal Code is repealed.

3 SEC. 5. Section 3700.5 of the Penal Code is amended to read:

4 3700.5. Whenever a court makes and causes to be entered an  
5 order appointing a day upon which a judgment of death shall be  
6 executed upon a defendant, the warden of the state prison to whom  
7 such defendant has been delivered for execution shall notify the  
8 Secretary of the Department of Corrections and Rehabilitation  
9 who shall thereupon select and appoint three alienists, all of whom  
10 must be from the medical staffs of the Department of Corrections  
11 and Rehabilitation, to examine the defendant, under the judgment  
12 of death, and investigate his or her sanity. It is the duty of the  
13 alienists so selected and appointed to examine such defendant and  
14 investigate his or her sanity, and to report their opinions and  
15 conclusions thereon, in writing, to the Governor and to the warden  
16 of the prison at which the execution is to take place at least 20  
17 days prior to the day appointed for the execution of the judgment  
18 of death upon the defendant. The warden shall furnish a copy of  
19 the report to counsel for the defendant upon his or her request.