

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1678

Introduced by Assembly Members Lieu and Huber

January 25, 2010

~~An act relating to prisoners.~~ *An act to amend Section 3000.03 of, and to add Sections 3000.04, 3000.06, and 3000.08 to, the Penal Code, relating to parole.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1678, as amended, Lieu. Prisoners: ~~release and recidivism.~~ *parole.*

Existing law requires the Department of Corrections and Rehabilitation to release a prisoner on a specified period of parole after the expiration of a term of imprisonment. Under existing law, the department is authorized to return a parolee to prison if the Board of Parole Hearings determines that the parolee violated the terms of his or her parole, as specified.

Under existing law the department is prohibited from returning a parolee to prison, placing a parole hold on the parolee, or reporting the parolee to the Board of Parole Hearings for a violation of parole, if the parolee has not committed a violent or serious felony, is not required to register as a sex offender, was not found guilty of a serious disciplinary offense while in prison, is not a validated member of a prison gang, and has been determined by using a validated risk assessment tool as not posing a high risk to refined, as specified.

This bill would provide that a person shall not be granted nonrevocable parole, as described above, if he or she is required to register pursuant to the California Street Terrorism Enforcement and Prevention Act, is listed on the CalGang System, or has identified

himself or herself as a gang member to a staff member of the Department of Corrections and Rehabilitation. The bill would provide that a person shall not be granted nonrevocable parole if the person was committed to prison for solicitation of murder, stalking, or domestic violence or if the person has a previous conviction for one of these crimes. The bill would also provide that a person shall not be granted nonrevocable parole if an objection to the person's parole, by a local law enforcement agency, has been sustained by either the Secretary of the Department of Corrections and Rehabilitation or the Board of Parole Hearings, as specified.

This bill would require the department to inform a local law enforcement agency within 48 hours of determining that a prisoner is eligible to be released on nonrevocable parole in the local agency's jurisdiction, and to provide local law enforcement 10 business days to object to the person's release. This bill would require the Secretary of the Department of Corrections and Rehabilitation, or his or her designee, to review any objection and to not grant nonrevocable parole if the department concurs with the objection. If the department does not concur, the bill would require the Board of Parole Hearings to hold a public hearing in which the person's victims would be permitted to testify, and would require a 2/3 vote of the board to release the person on nonrevocable parole.

This bill would require the department to provide certain information on its Internet Web site regarding inmates released to nonrevocable parole, as specified. This bill would require that parole information be accessible to law enforcement agencies through the California Law Enforcement Telecommunications System, as specified.

Existing law provides generally for the release of prisoners from the state's prison system.

~~This bill would state the intent of the Legislature to later amend this bill to enact provisions that would prohibit the California Department of Corrections and Rehabilitation (CDCR) from releasing prisoners who have committed, or intend to commit, certain specified crimes; to require the CDCR to notify local law enforcement with certain specified information regarding released prisoners; and to require the CDCR to provide a list of crimes committed by prisoners being released early on the CDCR's Internet Web site.~~

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

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

1 *SECTION 1. It is the intent of the Legislature to enhance public*
2 *safety and reduce recidivism by reasonable, commonsense reforms*
3 *that will mitigate the effects of releasing thousands of convicted*
4 *felons early, and in some cases without parole supervision, as a*
5 *result of the passage of Senate Bill 18 of the 2009–10 Third*
6 *Extraordinary Session.*

7 *SEC. 2. Section 3000.03 of the Penal Code is amended to read:*
8 3000.03. Notwithstanding any other provision of law, the
9 Department of Corrections and Rehabilitation shall not return to
10 prison, place a parole hold on pursuant to Section 3056, or report
11 any parole violation to the Board of Parole Hearings regarding any
12 person to whom all of the following criteria apply:

13 (a) The person is not required to register as a sex offender
14 pursuant to Chapter 5.5 (commencing with Section 290) of Title
15 9 of Part 1.

16 (b) The person was not committed to prison for a serious felony
17 as defined in Sections 1192.7 and 1192.8, or a violent felony, as
18 defined in Section 667.5, and does not have a prior conviction for
19 a serious felony, as defined in Section 1192.7 and 1192.8, or a
20 violent felony, as defined in Section 667.5.

21 (c) The person was not committed to prison for a sexually
22 violent offense as defined in subdivision (b) of Section 6600 of
23 the Welfare and Institutions Code and does not have a prior
24 conviction for a sexually violent offense as defined in subdivision
25 (b) of Section 6600 of the Welfare and Institutions Code.

26 (d) *The person was not committed to prison for solicitation of*
27 *murder as defined in Section 653f, or stalking as defined in Section*
28 *646.9, or domestic violence as defined in Section 273.5, and does*
29 *not have a prior conviction for any of the crimes specified in this*
30 *subdivision.*

31 ~~(e)~~

32 (e) The person was not found guilty of a serious disciplinary
33 offense, as defined in regulation by the department, during his or
34 her current term of imprisonment.

35 ~~(e)~~

36 (f) The person is not a validated prison gang member or
37 associate, as defined in regulation by the department.

1 (g) *The person is not required to register pursuant to Section*
2 *186.30, is not listed on the CalGang System operated by the*
3 *Department of Justice, and has not identified himself or herself as*
4 *a gang member to the department’s staff.*

5 ~~(f)~~

6 (h) *The person did not refuse to sign any written notification of*
7 *parole requirements or conditions, including, but not limited to,*
8 *the written notification of requirements pursuant to Section 3067.*

9 ~~(g)~~

10 (i) *The person was evaluated by the department using a validated*
11 *risk assessment tool and was not determined to pose a high risk to*
12 *reoffend.*

13 (j) *An objection to the person’s parole, by a local law*
14 *enforcement agency, has not been sustained by either the secretary*
15 *or his or her designee or by the Board of Parole Hearings pursuant*
16 *to Section 3000.04.*

17 SEC. 3. *Section 3000.04 is added to the Penal Code, to read:*

18 3000.04. (a) *The Department of Corrections and Rehabilitation*
19 *shall notify all local law enforcement agencies in the jurisdiction*
20 *to which a person may be released pursuant to Section 3000.03*
21 *within 48 hours of a determination being made by the department*
22 *that the person satisfies the requirements of subdivisions (a) to (i),*
23 *inclusive, of Section 3000.03.*

24 (b) *The local law enforcement agencies in the jurisdiction to*
25 *which the person may be released shall have 10 business days,*
26 *commencing on the first business day following receipt of the notice*
27 *made by the department pursuant to subdivision (a), to object in*
28 *writing to the person’s release. The local law enforcement agency*
29 *shall send its written objections to the secretary of the department.*

30 (c) *The secretary, or a person designated by the secretary for*
31 *this purpose, shall review any objection made by a local law*
32 *enforcement agency.*

33 (d) *If the secretary, or his or her designee, concurs with an*
34 *objection made by a local law enforcement agency, the objection*
35 *is upheld and the person shall not be granted parole pursuant to*
36 *Section 3000.03.*

37 (e) *If the secretary, or his or her designee, does not concur with*
38 *an objection made by a local law enforcement agency, the Board*
39 *of Parole Hearings shall hold a public hearing, and a majority of*
40 *the commissioners holding office on the date the matter is heard*

1 *by the board shall conduct an en banc review of the matter. At the*
2 *hearing, the board shall hear testimony from any victim of any*
3 *crime for which the person has been convicted, and any local law*
4 *enforcement agency in the jurisdiction to which the person may*
5 *be released. The board shall vote on whether to grant parole*
6 *pursuant to Section 3000.03. A vote to grant parole pursuant to*
7 *Section 3000.03 shall require two-thirds of the commissioners*
8 *voting.*

9 *SEC. 4. Section 3000.06 is added to the Penal Code, to read:*
10 *3000.06. If a person is released on parole pursuant to Section*
11 *3000.03, that fact shall be entered into the California Law*
12 *Enforcement Telecommunications System.*

13 *SEC. 5. Section 3000.08 is added to the Penal Code, to read:*
14 *3000.08. (a) For all persons paroled pursuant to Section*
15 *3000.03, the Department of Corrections and Rehabilitation shall*
16 *provide the following information on its Internet Web site:*

17 *(1) The total number of persons paroled pursuant to Section*
18 *3000.03.*

19 *(2) The crimes for which the parolees have been convicted. The*
20 *department shall list each relevant crime and the corresponding*
21 *number of persons who have been released who have been*
22 *convicted of that crime. The tally of persons convicted of a crime*
23 *shall include prior convictions and convictions for which the*
24 *persons are on parole.*

25 *(b) The information provided by the department pursuant to*
26 *this subdivision shall not include the parolees' names or other*
27 *personal identifying information.*

28 ~~SECTION 1. It is the intent of the Legislature to enhance public~~
29 ~~safety and reduce recidivism by later amending into this bill~~
30 ~~reasonable, common sense provisions that would mitigate the~~
31 ~~effects of releasing thousands of convicted felons early without~~
32 ~~parole supervision by doing all of the following:~~

33 ~~(a) Prohibiting the California Department of Corrections and~~
34 ~~Rehabilitation (CDCR) from releasing prisoners who have~~
35 ~~committed, or intend to commit, serious, violent, or sexual crimes.~~

36 ~~(b) Enabling local law enforcement agencies to object to the~~
37 ~~early release of a convicted felon without parole supervision.~~

38 ~~(c) Requiring the CDCR to notify local law enforcement~~
39 ~~agencies within a reasonable time period prior to the release of~~

- 1 prisoners into a county with critical information about the identity,
- 2 location, and criminal history of the prisoners to be released.
- 3 ~~(d) Requiring the CDCR to notify local law enforcement~~
- 4 ~~agencies whenever a parolee does any of the following:~~
- 5 ~~(1) Absconds.~~
- 6 ~~(2) Tampers with a GPS or other tracking device.~~
- 7 ~~(3) Undertakes efforts to subvert a parole officers' ability to~~
- 8 ~~monitor the parolee.~~
- 9 ~~(4) Requests and receives permission to relocate outside of the~~
- 10 ~~community into which he or she was released.~~
- 11 ~~(e) Requiring felons to provide identification to any law~~
- 12 ~~enforcement officer upon request.~~
- 13 ~~(f) Requiring the CDCR to provide a list of the crimes~~
- 14 ~~committed by prisoners being released early without parole~~
- 15 ~~supervision on the department's Internet Web site.~~