
Introduced by Senator Denham

December 2, 2008

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 28, as introduced, Denham. Prisons: San Quentin State Prison. 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, 2014. The bill would authorize the Governor to designate the state prison that would house condemned inmates. The bill would also make conforming and technical, nonsubstantive changes.

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~~ *Secretary of the Department*
- 6 *of Corrections and Rehabilitation* at the state prison or institution
- 7 designated by the ~~Director of Corrections~~ *secretary* as the place

1 for the reception of persons convicted of felonies, except ~~where if~~
2 the judgment is for death, in which case the defendant shall be
3 taken to the warden of the ~~California State Prison at San Quentin~~
4 *prison designated for executions pursuant to Section 3603.5.*

5 ~~Unless a different place or places are so designated by the~~
6 ~~Director of Corrections, the judgment shall direct that the defendant~~
7 ~~be delivered into the custody of the Director of Corrections at the~~
8 ~~California State Prison at San Quentin. The Director of Corrections~~

9 *The secretary* shall designate a place or places for the reception
10 of persons convicted of felonies by order, which order or orders
11 shall be served by registered mail, return receipt requested, upon
12 each judge of each superior court in the state. ~~The Director of~~
13 ~~Corrections secretary~~ may change the place or places of
14 commitment by the issuance of a new order. Nothing contained
15 in this section affects any provision of Section 3400.

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

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

22 (b) Notwithstanding any other provision of law:

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

32 (A) Homicide.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3603.5. (a) The California State Prison at San Quentin shall be decommissioned no later than December 31, 2014. Commencing January 1, 2014, all death-row prisoners shall be housed, and executions carried out, in a state prison other than San Quentin. All non-death-row prisoners shall be moved out of San Quentin by June 30, 2014.

(b) The Governor, after consulting with members of his or her cabinet, legislative leaders of both parties, and local government officials, shall make a decision no later than March 31, 2011, regarding which prison shall house death-row prisoners and be the site of executions.

(c) The building of a new death-row and execution site is exempt from the California Environmental Quality Act. Bids on building a new death-row and execution site shall be taken commencing on September 1, 2011, and ending on March 31, 2012. Construction on the death-row and execution site shall begin immediately after announcement of the winning bid and shall be completed no later than June 30, 2013.

1 (d) The land upon which San Quentin sits shall be sold, the
2 proceeds shall be exempt from the provisions of Proposition 60a
3 of the November 2, 2004, statewide general election, and shall,
4 upon appropriation by the Legislature, go to building the new death
5 row at another prison. Bids on the purchase of San Quentin and
6 the land shall be taken commencing on January 1, 2011, and ending
7 on December 31, 2011. Full payment of the purchase price shall
8 be due no later than June 30, 2012.

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

13 (f) The development of residential or commercial facilities, or
14 both, by the new owner of the site shall be exempt from the
15 California Environmental Quality Act. However, no industrial
16 development shall be permitted at the site.

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

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