

**ASSEMBLY BILL**

**No. 44**

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**Introduced by Assembly Members Logue and Galgiani**

December 6, 2010

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An act to amend Section 3058.6 of the Penal Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 44, as introduced, Logue. Inmates: release: notification.

Existing law requires the Department of Corrections and Rehabilitation, when releasing prisoners on parole who have been convicted of a violent felony, as defined, or certain other felonies, as specified, to notify the law enforcement agency and the district attorney having jurisdiction over the community in which the person was convicted and also the law enforcement agency and district attorney having jurisdiction over the community in which the person is scheduled to be released.

Existing law requires that this notification be made by mail at least 45 days prior to the scheduled release date, and provides deadlines for local authorities to respond with written comments regarding county placements, and for the department to reply. If notification cannot be provided within the 45 days due to an unanticipated release date change of an inmate, as specified, or because the department modifies its decision regarding the community of release due to comments received by the department from agencies in that community, existing law requires that notification be provided no less than 24 hours after a final decision is made regarding where the parolee is to be released.

Existing law requires that if there is a change of county placement after the 45-day notice is given to local law enforcement and the district

attorney relating to an out-of-county placement, notice to the ultimate county of placement shall be made upon the determination of the county of placement.

This bill would require that notification be sent 60 days prior to the scheduled release date of an inmate, unless the notification cannot be provided within the 60 days due to an unanticipated change in the release date of an inmate, and would prohibit any change in county placement less than 30 days prior to the release date unless due to an unanticipated change in a release date, as specified. The bill would conform the timeline for local comments and the department response to the longer notification period, as specified. If there is a change in county of placement after the 60-day notice is given, this bill would require that notification be sent by mail at least 30 days prior to the scheduled release date to the ultimate county of placement.

Existing law prohibits the department from restoring credits or taking administrative action resulting in an inmate being placed in a greater credit earning category that would result in notification being provided less than 45 days prior to the inmate’s scheduled release date.

This bill would conform this provision to its 60-day notification requirement.

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 3058.6 of the Penal Code is amended to  
 2 read:  
 3 3058.6. (a) Whenever any person confined to state prison is  
 4 serving a term for the conviction of a violent felony listed in  
 5 subdivision (c) of Section 667.5, the Board of ~~Prison Terms~~ *Parole*  
 6 *Hearings*, with respect to inmates sentenced pursuant to subdivision  
 7 (b) of Section 1168 or the Department of Corrections *and*  
 8 *Rehabilitation*, with respect to inmates sentenced pursuant to  
 9 Section 1170, shall notify the sheriff or chief of police, or both,  
 10 and the district attorney, who has jurisdiction over the community  
 11 in which the person was convicted and, in addition, the sheriff or  
 12 chief of police, or both, and the district attorney, having jurisdiction  
 13 over the community in which the person is scheduled to be released  
 14 on parole or rereleased following a period of confinement pursuant  
 15 to a parole revocation without a new commitment.

1 (b) (1) The notification shall be made by mail at least ~~45~~ 60  
2 days prior to the scheduled release date, except as provided in  
3 paragraph (3). In all cases, the notification shall include the name  
4 of the person who is scheduled to be released, whether or not the  
5 person is required to register with local law enforcement, and the  
6 community in which the person will reside. The notification shall  
7 specify the office within the Department of Corrections *and*  
8 *Rehabilitation* with the authority to make final determination and  
9 adjustments regarding parole location decisions. *If, after the 60-day*  
10 *notice is given to law enforcement and to the district attorney*  
11 *relating to a county placement, there is a change of county*  
12 *placement, notification shall be made by mail at least 30 days*  
13 *prior to the scheduled release date to the ultimate county of*  
14 *placement. Except as provided in paragraph (3), no changes of*  
15 *county placement shall be made less than 30 days prior to the*  
16 *scheduled release date.*

17 (2) Notwithstanding any other provision of law, the Department  
18 of Corrections *and Rehabilitation* shall not restore credits nor take  
19 any administrative action resulting in an inmate being placed in a  
20 greater credit earning category that would result in notification  
21 being provided less than ~~45~~ 60 days prior to an inmate's scheduled  
22 release date.

23 (3) When notification cannot be provided ~~within the 45~~ *at least*  
24 *60 days prior to release* due to the unanticipated release date  
25 change of an inmate as a result of an order from the court, an action  
26 by the Board of ~~Prison Terms Parole Hearings~~, the granting of an  
27 administrative appeal, or a finding of not guilty or dismissal of a  
28 disciplinary action, that affects the sentence of the inmate, ~~or due~~  
29 ~~to a modification of the department's decision regarding the~~  
30 ~~community into which the person is scheduled to be released~~  
31 ~~pursuant to paragraph (4)~~; the department shall provide notification  
32 as soon as practicable, but in no case ~~less~~ *more* than 24 hours after  
33 the final decision is made regarding where the parolee will be  
34 released.

35 (4) Those agencies receiving the notice referred to in this  
36 subdivision may provide written comment to the board or  
37 department regarding the impending release. Agencies that choose  
38 to provide written comments shall respond within ~~30~~ 45 days prior  
39 to the inmate's scheduled release, unless an agency received less  
40 than ~~45~~ 60 days' notice of the impending release, in which case

1 the agency shall respond as soon as practicable prior to the  
 2 scheduled release. Those comments shall be considered by the  
 3 board or department which may, based on those comments, modify  
 4 its decision regarding the community in which the person is  
 5 scheduled to be released. The Department of Corrections *and*  
 6 *Rehabilitation* shall respond in writing not less than ~~15~~ 30 days  
 7 prior to the scheduled release with a final determination as to  
 8 whether to adjust the parole location and documenting the basis  
 9 for its decision, unless the department received comments less  
 10 than ~~30~~ 45 days prior to the impending release, in which case the  
 11 department shall respond as soon as practicable *and* prior to the  
 12 scheduled release. The comments shall become a part of the  
 13 inmate's file.

14 (c) If the court orders the immediate release of an inmate, the  
 15 department shall notify the sheriff or chief of police, or both, and  
 16 the district attorney, having jurisdiction over the community in  
 17 which the person was convicted and, in addition, the sheriff or  
 18 chief of police, or both, and the district attorney, having jurisdiction  
 19 over the community in which the person is scheduled to be released  
 20 on parole at the time of release.

21 (d) The notification required by this section shall be made  
 22 whether or not a request has been made under Section 3058.5.

23 In no case shall notice required by this section to the appropriate  
 24 agency be later than the day of release on parole. ~~If, after the 45-day~~  
 25 ~~notice is given to law enforcement and to the district attorney~~  
 26 ~~relating to an out-of-county placement, there is change of county~~  
 27 ~~placement, notice to the ultimate county of placement shall be~~  
 28 ~~made upon the determination of the county of placement.~~