

Introduced by Senator LenoFebruary 24, 2012

An act to add Sections 26605.6 and 26605.7 to the Government Code, relating to sheriffs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, as introduced, Leno. County sheriffs: release of prisoners: medical release.

Existing law requires the sheriff to receive all persons committed to jail by competent authority and authorizes a sheriff to release a prisoner from a county correctional facility for transfer to a medical care facility or residential care facility upon the advice of a physician, as specified, provided the sheriff gives specified notice to the superior court.

This bill would additionally authorize the sheriff to release a prisoner from a county correctional facility after conferring with a physician who has oversight for providing medical care at the county jail if the sheriff determines that the prisoner would not reasonably pose a threat to public safety and the prisoner, upon diagnosis by the examining physician, is deemed to have a life expectancy of 6 months or less, provided the sheriff gives specified notice to the superior court. The bill would also authorize the sheriff to request the court to grant medical probation or to resentence a prisoner to medical probation in lieu of jail time to prisoners convicted and sentenced for specified crimes to the county jail, if the prisoner is physically incapacitated with a medical condition that renders the prisoner permanently unable to perform activities of basic daily living, which has resulted in the prisoner requiring 24-hour care, and if that incapacitation did not exist at the time of sentencing or if the prisoner would require acute long-term inpatient rehabilitation services. The bill would authorize the probation

officer or the court to request a medical examination of the person released on medical parole at any time, and to return that person to the sheriff’s custody if that person no longer qualifies for release.

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

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

1 SECTION 1. Section 26605.6 is added to the Government
2 Code, to read:

3 26605.6. (a) The sheriff, or his or her designee, has the
4 authority, after conferring with a physician who has oversight for
5 providing medical care at the county jail, or that physician’s
6 designee, to release from a county correctional facility, a prisoner
7 sentenced to the county jail if the sheriff determines that the
8 prisoner would not reasonably pose a threat to public safety and
9 the prisoner, upon diagnosis by the examining physician, is deemed
10 to have a life expectancy of six months or less.

11 (b) Prior to the release of any prisoner pursuant to this section,
12 the sheriff shall notify the presiding judge of the superior court of
13 his or her intention to release the prisoner. This notification shall
14 include:

- 15 (1) The prisoner’s name.
- 16 (2) The offense or offenses for which the prisoner was
17 incarcerated, if applicable, and the pending charges, if applicable.
- 18 (3) The date of sentence, if applicable.
- 19 (4) The physician’s diagnosis of the prisoner’s condition.
- 20 (5) The physician’s prognosis for the prisoner’s recovery.

21 (c) This section shall not be construed as authorizing the sheriff
22 to refuse to receive and incarcerate a defendant or sentenced
23 individual who is not in need of immediate medical care or who
24 has a terminal medical condition.

25 SEC. 2. Section 26605.7 is added to the Government Code, to
26 read:

27 26605.7. (a) The sheriff, or his or her designee, after conferring
28 with the physician who has oversight for providing medical care,
29 or the physician’s designee, may request the court to grant medical
30 probation or to resentence a prisoner to medical probation in lieu
31 of jail time for any prisoner sentenced to the county jail pursuant

1 to subdivision (h) of Section 1170 of the Penal Code, under either
2 of the following circumstances:

3 (1) The prisoner is physically incapacitated with a medical
4 condition that renders the prisoner permanently unable to perform
5 activities of basic daily living, which has resulted in the prisoner
6 requiring 24-hour care, if that incapacitation did not exist at the
7 time of sentencing.

8 (2) The prisoner would require acute long-term inpatient
9 rehabilitation services.

10 (b) During the time on probation pursuant to this section, the
11 probation officer or court may, at any time, request a medical
12 reexamination of the person by a physician who has oversight for
13 providing medical care to prisoners in the county jail, or the
14 physician's designee. If the court determines, based on that medical
15 examination, that the person's medical condition has improved to
16 the extent that the person no longer qualifies for medical probation,
17 the court may return the person to the custody of the sheriff.