

**ASSEMBLY BILL**

**No. 2**

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**Introduced by Assembly Member Morrell**

December 3, 2012

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An act to amend Section 3455 of, and to add Section 3005 to, the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 2, as introduced, Morrell. Sex offenders: parole violations.

Existing law requires persons who have been convicted of specified crimes to register as a sex offender. Existing law provides for parole and postrelease community supervision of felons, as provided, including provisions for the revocation of parole or postrelease community supervision by a court or revocation hearing officer.

This bill would provide that any criminal defendant who is released on parole or to postrelease community supervision, who has suffered a prior or current felony requiring registration as a sex offender, and who violates that parole or postrelease community-based supervision by violating the requirement to register as a sex offender shall serve any period of incarceration ordered for that violation in the state prison.

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 3005 is added to the Penal Code, to read:
- 2 3005. Any criminal defendant who is released on parole or to
- 3 postrelease community supervision, who has suffered a prior or
- 4 current felony requiring registration as a sex offender pursuant to

1 Section 290, and who violates that parole or community-based  
2 supervision by violating the requirement to register as a sex  
3 offender shall serve any period of incarceration ordered for that  
4 violation in the state prison.

5 SEC. 2. Section 3455 of the Penal Code is amended to read:

6 3455. (a) If the supervising county agency has determined,  
7 following application of its assessment processes, that intermediate  
8 sanctions as authorized in subdivision (b) of Section 3454 are not  
9 appropriate, the supervising county agency shall petition the court  
10 pursuant to Section 1203.2 to revoke, modify, or terminate  
11 postrelease community supervision. At any point during the process  
12 initiated pursuant to this section, a person may waive, in writing,  
13 his or her right to counsel, admit the violation of his or her  
14 postrelease community supervision, waive a court hearing, and  
15 accept the proposed modification of his or her postrelease  
16 community supervision. The petition shall include a written report  
17 that contains additional information regarding the petition,  
18 including the relevant terms and conditions of postrelease  
19 community supervision, the circumstances of the alleged  
20 underlying violation, the history and background of the violator,  
21 and any recommendations. The Judicial Council shall adopt forms  
22 and rules of court to establish uniform statewide procedures to  
23 implement this subdivision, including the minimum contents of  
24 supervision agency reports. Upon a finding that the person has  
25 violated the conditions of postrelease community supervision, the  
26 revocation hearing officer shall have authority to do all of the  
27 following:

28 (1) Return the person to postrelease community supervision  
29 with modifications of conditions, if appropriate, including a period  
30 of incarceration in county jail.

31 (2) Revoke and terminate postrelease community supervision  
32 and order the person to confinement in the county jail.

33 (3) Refer the person to a reentry court pursuant to Section 3015  
34 or other evidence-based program in the court's discretion.

35 (4) *When a violation is found based on the conduct described*  
36 *in Section 3005, revoke and terminate postrelease community*  
37 *supervision and order the person to confinement in the state prison.*

38 (b) (1) At any time during the period of postrelease community  
39 supervision, if any peace officer has probable cause to believe a  
40 person subject to postrelease community supervision is violating

1 any term or condition of his or her release, the officer may, without  
2 a warrant or other process, arrest the person and bring him or her  
3 before the supervising county agency established by the county  
4 board of supervisors pursuant to subdivision (a) of Section 3451.  
5 Additionally, an officer employed by the supervising county agency  
6 may seek a warrant and a court or its designated hearing officer  
7 appointed pursuant to Section 71622.5 of the Government Code  
8 shall have the authority to issue a warrant for that person's arrest.

9 (2) The court or its designated hearing officer shall have the  
10 authority to issue a warrant for any person who is the subject of a  
11 petition filed under this section who has failed to appear for a  
12 hearing on the petition or for any reason in the interests of justice,  
13 or to remand to custody a person who does appear at a hearing on  
14 the petition for any reason in the interests of justice.

15 (c) The revocation hearing shall be held within a reasonable  
16 time after the filing of the revocation petition. Based upon a  
17 showing of a preponderance of the evidence that a person under  
18 supervision poses an unreasonable risk to public safety, or the  
19 person may not appear if released from custody, or for any reason  
20 in the interests of justice, the supervising county agency shall have  
21 the authority to make a determination whether the person should  
22 remain in custody pending the first court appearance on a petition  
23 to revoke postrelease community supervision, and upon that  
24 determination, may order the person confined pending his or her  
25 first court appearance.

26 (d) Confinement pursuant to paragraphs (1) and (2) of  
27 subdivision (a) shall not exceed a period of 180 days in the county  
28 jail for each custodial sanction.

29 (e) A person shall not remain under supervision or in custody  
30 pursuant to this title on or after three years from the date of the  
31 person's initial entry onto postrelease community supervision,  
32 except when his or her supervision is tolled pursuant to Section  
33 1203.2 or subdivision (b) of Section 3456.

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