

AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2**

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**Introduced by Assembly Member Morrell**  
*(Coauthors: Assembly Members Conway, Beth Gaines, Gorell, Harkey,  
Jones, Nestande, and Wilk)*

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 amended, 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~~ *require a* 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 to~~ *serve any period of incarceration ordered for that violation in the state prison. This bill would also make a conforming change by authorizing the revocation hearing officer to revoke and terminate postrelease community supervision and order the person to confinement in the state prison, upon a finding that the person has violated the conditions of postrelease community supervision.*

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~~A criminal defendant who is released on parole or  
3 to postrelease community supervision, who has suffered a prior  
4 or current felony requiring registration as a sex offender pursuant  
5 to Section 290, and who violates that parole or community-based  
6 supervision by violating the requirement to register as a sex  
7 offender shall serve any period of incarceration ordered for that  
8 violation in the state prison.

9 SEC. 2. Section 3455 of the Penal Code is amended to read:  
10 3455. (a) If the supervising county agency has determined,  
11 following application of its assessment processes, that intermediate  
12 sanctions as authorized in subdivision (b) of Section 3454 are not  
13 appropriate, the supervising county agency shall petition the court  
14 pursuant to Section 1203.2 to revoke, modify, or terminate  
15 postrelease community supervision. At any point during the process  
16 initiated pursuant to this section, a person may waive, in writing,  
17 his or her right to counsel, admit the violation of his or her  
18 postrelease community supervision, waive a court hearing, and  
19 accept the proposed modification of his or her postrelease  
20 community supervision. The petition shall include a written report  
21 that contains additional information regarding the petition,  
22 including the relevant terms and conditions of postrelease  
23 community supervision, the circumstances of the alleged  
24 underlying violation, the history and background of the violator,  
25 and any recommendations. The Judicial Council shall adopt forms  
26 and rules of court to establish uniform statewide procedures to  
27 implement this subdivision, including the minimum contents of  
28 supervision agency reports. Upon a finding that the person has  
29 violated the conditions of postrelease community supervision, the  
30 revocation hearing officer shall have authority to do all of the  
31 following:

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

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

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

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

8 (b) (1) At any time during the period of postrelease community  
9 supervision, if any peace officer has probable cause to believe a  
10 person subject to postrelease community supervision is violating  
11 any term or condition of his or her release, the officer may, without  
12 a warrant or other process, arrest the person and bring him or her  
13 before the supervising county agency established by the county  
14 board of supervisors pursuant to subdivision (a) of Section 3451.

15 Additionally, an officer employed by the supervising county agency  
16 may seek a warrant and a court or its designated hearing officer  
17 appointed pursuant to Section 71622.5 of the Government Code  
18 shall have the authority to issue a warrant for that person's arrest.

19 (2) The court or its designated hearing officer shall have the  
20 authority to issue a warrant for any person who is the subject of a  
21 petition filed under this section who has failed to appear for a  
22 hearing on the petition or for any reason in the interests of justice,  
23 or to remand to custody a person who does appear at a hearing on  
24 the petition for any reason in the interests of justice.

25 (c) The revocation hearing shall be held within a reasonable  
26 time after the filing of the revocation petition. Based upon a  
27 showing of a preponderance of the evidence that a person under  
28 supervision poses an unreasonable risk to public safety, or the  
29 person may not appear if released from custody, or for any reason  
30 in the interests of justice, the supervising county agency shall have  
31 the authority to make a determination whether the person should  
32 remain in custody pending the first court appearance on a petition  
33 to revoke postrelease community supervision, and upon that  
34 determination, may order the person confined pending his or her  
35 first court appearance.

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

39 (e) A person shall not remain under supervision or in custody  
40 pursuant to this title on or after three years from the date of the

- 1 person's initial entry onto postrelease community supervision,
- 2 except when his or her supervision is tolled pursuant to Section
- 3 1203.2 or subdivision (b) of Section 3456.