

**ASSEMBLY BILL**

**No. 68**

---

---

**Introduced by Assembly Member Maienschein**

January 9, 2013

---

---

An act to amend Section 3550 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

AB 68, as introduced, Maienschein. Parole.

Existing law provides that the Board of Parole Hearings or its successor in interest shall be the state's parole authority. Existing law provides that, except as specified, a prisoner who is found to be permanently medically incapacitated, as specified, shall be granted medical parole, if the Board of Parole Hearings determines that the conditions under which the prisoner would be released would not reasonably pose a threat to public safety. Existing law requires a physician employed by the Department of Corrections and Rehabilitation who is the primary care provider for a prisoner to recommend that the prisoner be referred to the Board of Parole Hearings for consideration for medical parole if the physician believes the prisoner meets the medical criteria for medical parole.

This bill would require the Department of Corrections and Rehabilitation to give notice of any medical parole hearing and any medical parole release to both the county of commitment and the county of proposed release, at least 30 days prior to a medical parole hearing or a medical parole release. This bill would require that the notice include pertinent information regarding the inmate, including his or her plan for residency and medical care.

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 3550 of the Penal Code is amended to  
2 read:

3 3550. (a) Notwithstanding any other provision of law, except  
4 as provided in subdivision (b), any prisoner who the head physician  
5 of the institution where the prisoner is located determines, as  
6 provided in this section, is permanently medically incapacitated  
7 with a medical condition that renders him or her permanently  
8 unable to perform activities of basic daily living, and results in the  
9 prisoner requiring 24-hour care, and that incapacitation did not  
10 exist at the time of sentencing, shall be granted medical parole if  
11 the Board of Parole Hearings determines that the conditions under  
12 which the prisoner would be released would not reasonably pose  
13 a threat to public safety.

14 (b) Subdivision (a) shall not apply to any prisoner sentenced to  
15 death or life in prison without possibility of parole or to any inmate  
16 who is serving a sentence for which parole, pursuant to subdivision  
17 (a), is prohibited by any initiative statute. The provisions of this  
18 section shall not be construed to alter or diminish the rights  
19 conferred under the Victim's Bill of Rights Act of 2008: Marsy's  
20 Law.

21 (c) When a physician employed by the Department of  
22 Corrections and Rehabilitation who is the primary care provider  
23 for an inmate identifies an inmate that he or she believes meets  
24 the medical criteria for medical parole specified in subdivision (a),  
25 the primary care physician shall recommend to the head physician  
26 of the institution where the prisoner is located that the prisoner be  
27 referred to the Board of Parole Hearings for consideration for  
28 medical parole. Within 30 days of receiving that recommendation,  
29 if the head physician of the institution concurs in the  
30 recommendation of the primary care physician, he or she shall  
31 refer the matter to the Board of Parole Hearings using a  
32 standardized form and format developed by the department, and  
33 if the head physician of the institution does not concur in the  
34 recommendation, he or she shall provide the primary care physician  
35 with a written explanation of the reasons for denying the referral.

36 (d) Notwithstanding any other provisions of this section, the  
37 prisoner or his or her family member or designee may  
38 independently request consideration for medical parole by

1 contacting the head physician at the prison or the department.  
2 Within 30 days of receiving the request, the head physician of the  
3 institution shall, in consultation with the prisoner's primary care  
4 physician, make a determination regarding whether the prisoner  
5 meets the criteria for medical parole as specified in subdivision  
6 (a) and, if the head physician of the institution determines that the  
7 prisoner satisfies the criteria set forth in subdivision (a), he or she  
8 shall refer the matter to the Board of Parole Hearings using a  
9 standardized form and format developed by the department. If the  
10 head physician of the institution does not concur in the  
11 recommendation, he or she shall provide the prisoner or his or her  
12 family member or designee with a written explanation of the  
13 reasons for denying the application.

14 (e) The Department of Corrections and Rehabilitation shall  
15 complete parole plans for inmates referred to the Board of Parole  
16 Hearings for medical parole consideration. The parole plans shall  
17 include, but not be limited to, the inmate's plan for residency and  
18 medical care.

19 (f) Notwithstanding any other law, medical parole hearings shall  
20 be conducted by two-person panels consisting of at least one  
21 commissioner. In the event of a tie vote, the matter shall be referred  
22 to the full board for a decision. Medical parole hearings may be  
23 heard in absentia.

24 (g) Upon receiving a recommendation from the head physician  
25 of the institution where a prisoner is located for the prisoner to be  
26 granted medical parole pursuant to subdivision (c) or (d), the board,  
27 as specified in subdivision (f), shall make an independent judgment  
28 regarding whether the conditions under which the inmate would  
29 be released pose a reasonable threat to public safety, and make  
30 written findings related thereto.

31 (h) Notwithstanding any other provision of law, the board or  
32 the Division of Adult Parole Operations shall have the authority  
33 to impose any reasonable conditions on prisoners subject to medical  
34 parole supervision pursuant to subdivision (a), including, but not  
35 limited to, the requirement that the parolee submit to electronic  
36 monitoring. As a further condition of medical parole, pursuant to  
37 subdivision (a), the parolee may be required to submit to an  
38 examination by a physician selected by the board for the purpose  
39 of diagnosing the parolee's current medical condition. In the event  
40 such an examination takes place, a report of the examination and

1 diagnosis shall be submitted to the board by the examining  
2 physician. If the board determines, based on that medical  
3 examination, that the person's medical condition has improved to  
4 the extent that the person no longer qualifies for medical parole,  
5 the board shall return the person to the custody of the department.

6 (1) Notwithstanding any other provision of law establishing  
7 maximum periods for parole, a prisoner sentenced to a determinate  
8 term who is placed on medical parole supervision prior to the  
9 earliest possible release date and who remains eligible for medical  
10 parole, shall remain on medical parole, pursuant to subdivision  
11 (a), until that earliest possible release date, at which time the  
12 parolee shall commence serving that period of parole provided by,  
13 and under the provisions of, Chapter 8 (commencing with Section  
14 3000) of Title 1.

15 (2) Notwithstanding any other provisions of law establishing  
16 maximum periods for parole, a prisoner sentenced to an  
17 indeterminate term who is placed on medical parole supervision  
18 prior to the prisoner's minimum eligible parole date, and who  
19 remains eligible for medical parole, shall remain on medical parole  
20 pursuant to subdivision (a) until that minimum eligible parole date,  
21 at which time the parolee shall be eligible for parole consideration  
22 under all other provisions of Chapter 8 (commencing with Section  
23 3000) of Title 1.

24 (i) The Department of Corrections and Rehabilitation shall, at  
25 the time a prisoner is placed on medical parole supervision pursuant  
26 to subdivision (a), ensure that the prisoner has applied for any  
27 federal entitlement programs for which the prisoner is eligible,  
28 and has in his or her possession a discharge medical summary, full  
29 medical records, parole medications, and all property belonging  
30 to the prisoner that was under the control of the department. Any  
31 additional records shall be sent to the prisoner's forwarding address  
32 after release to health care-related parole supervision.

33 (j) The provisions for medical parole set forth in this title shall  
34 not affect an inmate's eligibility for any other form of parole or  
35 release provided by law.

36 (k) *Notwithstanding any other provision of law, the Department*  
37 *of Corrections and Rehabilitation shall give notice to the county*  
38 *of commitment and the county of proposed release of any medical*  
39 *parole hearing as described in subdivision (f), and of any medical*

1 *parole release as described in subdivision (g), according to the*  
2 *following:*

3 *(1) Notice shall be made at least 30 days prior to the time any*  
4 *medical parole hearing or medical parole release is scheduled for*  
5 *an inmate receiving medical parole consideration, regardless of*  
6 *whether the inmate is sentenced either determinately or*  
7 *indeterminately.*

8 *(2) Notice shall include all relevant and pertinent information*  
9 *about the inmate, including his or her name, criminal history,*  
10 *medical and behavioral health needs, plan for residency and*  
11 *medical care as described in subdivision (e), and any skilled*  
12 *nursing facility location.*