

AMENDED IN ASSEMBLY APRIL 1, 2013
AMENDED IN ASSEMBLY FEBRUARY 26, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 68

Introduced by Assembly Member Maienschein
(Coauthor: Assembly Member Wilk)

January 9, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 68, as amended, 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 the county of commitment, the county of last legal residence, 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

1 recommendation, he or she shall provide the primary care physician
2 with a written explanation of the reasons for denying the referral.

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

19 (e) The Department of Corrections and Rehabilitation shall
20 complete parole plans for inmates referred to the Board of Parole
21 Hearings for medical parole consideration. The parole plans shall
22 include, but not be limited to, the inmate's plan for residency and
23 medical care.

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

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

36 (h) Notwithstanding any other provision of law, the board or
37 the Division of Adult Parole Operations shall have the authority
38 to impose any reasonable conditions on prisoners subject to medical
39 parole supervision pursuant to subdivision (a), including, but not
40 limited to, the requirement that the parolee submit to electronic

1 monitoring. As a further condition of medical parole, pursuant to
2 subdivision (a), the parolee may be required to submit to an
3 examination by a physician selected by the board for the purpose
4 of diagnosing the parolee's current medical condition. In the event
5 such an examination takes place, a report of the examination and
6 diagnosis shall be submitted to the board by the examining
7 physician. If the board determines, based on that medical
8 examination, that the person's medical condition has improved to
9 the extent that the person no longer qualifies for medical parole,
10 the board shall return the person to the custody of the department.

11 (1) Notwithstanding any other provision of law establishing
12 maximum periods for parole, a prisoner sentenced to a determinate
13 term who is placed on medical parole supervision prior to the
14 earliest possible release date and who remains eligible for medical
15 parole, shall remain on medical parole, pursuant to subdivision
16 (a), until that earliest possible release date, at which time the
17 parolee shall commence serving that period of parole provided by,
18 and under the provisions of, Chapter 8 (commencing with Section
19 3000) of Title 1.

20 (2) Notwithstanding any other provisions of law establishing
21 maximum periods for parole, a prisoner sentenced to an
22 indeterminate term who is placed on medical parole supervision
23 prior to the prisoner's minimum eligible parole date, and who
24 remains eligible for medical parole, shall remain on medical parole
25 pursuant to subdivision (a) until that minimum eligible parole date,
26 at which time the parolee shall be eligible for parole consideration
27 under all other provisions of Chapter 8 (commencing with Section
28 3000) of Title 1.

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

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

1 (k) (1) Notwithstanding any other provision of law, the
2 Department of Corrections and Rehabilitation shall give notice to
3 the county of commitment, the county of last legal residence as
4 defined in subdivision (l) of Section 14053.7 of the Welfare and
5 Institutions Code, and the county of proposed release of any
6 medical parole hearing as described in subdivision (f), and of any
7 medical parole release as described in subdivision (g), ~~according~~
8 ~~to the following:~~

9 (1)

10 (2) Notice shall be made at least 30 days prior to the time any
11 medical parole hearing or medical parole release is scheduled for
12 an inmate receiving medical parole consideration, regardless of
13 whether the inmate is sentenced either determinately or
14 indeterminately.

15 ~~(2) Notice shall include all relevant and pertinent information~~
16 ~~about the inmate, including his or her name, criminal history,~~
17 ~~medical and behavioral health needs, plan for residency and~~
18 ~~medical care as described in subdivision (e), and any skilled~~
19 ~~nursing facility location.~~

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