

AMENDED IN SENATE AUGUST 20, 2013
AMENDED IN ASSEMBLY APRIL 11, 2013
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, and the county of proposed release, at least 30 days prior to a medical parole hearing or a medical parole release.

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

1 if the head physician of the institution does not concur in the
2 recommendation, he or she shall provide the primary care physician
3 with a written explanation of the reasons for denying the referral.

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

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

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

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

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

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

12 (1) Notwithstanding any other provision of law establishing
13 maximum periods for parole, a prisoner sentenced to a determinate
14 term who is placed on medical parole supervision prior to the
15 earliest possible release date and who remains eligible for medical
16 parole, shall remain on medical parole, pursuant to subdivision
17 (a), until that earliest possible release date, at which time the
18 parolee shall commence serving that period of parole provided by,
19 and under the provisions of, Chapter 8 (commencing with Section
20 3000) of Title 1.

21 (2) Notwithstanding any other provisions of law establishing
22 maximum periods for parole, a prisoner sentenced to an
23 indeterminate term who is placed on medical parole supervision
24 prior to the prisoner's minimum eligible parole date, and who
25 remains eligible for medical parole, shall remain on medical parole
26 pursuant to subdivision (a) until that minimum eligible parole date,
27 at which time the parolee shall be eligible for parole consideration
28 under all other provisions of Chapter 8 (commencing with Section
29 3000) of Title 1.

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

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

4 (k) (1) Notwithstanding any other provision of law, the
5 Department of Corrections and Rehabilitation shall give notice to
6 the county of ~~commitment~~, *commitment* and the *proposed* county
7 of ~~proposed release~~ *release*, if that county is different than the
8 *county of commitment*, of any medical parole hearing as described
9 in subdivision (f), and of any medical parole release as described
10 in subdivision (g).

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