

AMENDED IN ASSEMBLY APRIL 1, 2013
AMENDED IN ASSEMBLY MARCH 19, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 601

Introduced by Assembly Members ~~Cooley and Eggman~~ and *Cooley*

February 20, 2013

An act to amend Sections 3000.08 and 3056 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

AB 601, as amended, ~~Cooley~~ Eggman. Parole.

Existing law requires that persons released after serving a term in state prison for specified felonies be subject to parole supervision by the Department of Corrections and Rehabilitation. Under existing law, if the supervising parole agency has determined that other sanctions are inappropriate, the agency may petition the court to revoke parole for specified violations. The court may respond to this petition by returning the person to parole supervision with a modification of conditions, revoke parole and order confinement in county jail, or refer the person to a reentry court.

This bill would authorize the court, upon petition, to revoke parole and return the person to state prison for a period not to exceed one year. The bill would require the Legislative Analyst's Office, on or before January 1, 2015, to produce a report, to be delivered to the Assembly, the Senate, and the Governor's office, evaluating the criminal justice realignment, specifically with regard to offenders under state supervision, as specified.

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 3000.08 of the Penal Code, as amended
 2 by Section 35 of Chapter 43 of the Statutes of 2012, is amended
 3 to read:

4 3000.08. (a) ~~Persons~~ A person released from state prison prior
 5 to or on or after July 1, 2013, after serving a prison term or, whose
 6 sentence has been deemed served pursuant to Section 2900.5, for
 7 any of the following crimes shall be subject to parole supervision
 8 by the Department of Corrections and Rehabilitation and the
 9 jurisdiction of the court in the county where the parolee is released
 10 or resides for the purpose of hearing petitions to revoke parole and
 11 impose a term of custody:

12 (1) A serious felony as described in subdivision (c) of Section
 13 1192.7.

14 (2) A violent felony as described in subdivision (c) of Section
 15 667.5.

16 (3) A crime for which the person was sentenced pursuant to
 17 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
 18 of subdivision (c) of Section 1170.12.

19 (4) ~~Any~~ A crime where the person eligible for release from
 20 prison is classified as a High Risk Sex Offender.

21 (5) ~~Any~~ A crime where the person is required, as a condition of
 22 parole, to undergo treatment by the State Department of State
 23 Hospitals pursuant to Section 2962.

24 (b) Notwithstanding any other provision of law, all other
 25 offenders released from prison shall be placed on postrelease
 26 supervision pursuant to Title 2.05 (commencing with Section
 27 3450).

28 (c) At any time during the period of parole of a person subject
 29 to this section, if ~~any~~ a parole agent or peace officer has probable
 30 cause to believe that the parolee is violating ~~any~~ a term or condition
 31 of his or her parole, the agent or officer may, without warrant or
 32 other process and at any time until the final disposition of the case,
 33 arrest the person and bring him or her before the court, or the court
 34 may, in its discretion, issue a warrant for that person's arrest
 35 pursuant to Section 1203.2.

1 (d) Upon review of the alleged violation and a finding of good
2 cause that the parolee has committed a violation of law or violated
3 his or her conditions of parole, the supervising parole agency may
4 impose additional and appropriate conditions of supervision,
5 including rehabilitation and treatment services and appropriate
6 incentives for compliance, and impose immediate, structured, and
7 intermediate sanctions for parole violations, including flash
8 incarceration in a county jail. Periods of “flash incarceration,” as
9 defined in subdivision (e) are encouraged as one method of
10 punishment for violations of a parolee’s conditions of parole.
11 Nothing in this section is intended to preclude referrals to a reentry
12 court pursuant to Section 3015.

13 (e) “Flash incarceration” is a period of detention in county jail
14 due to a violation of a parolee’s conditions of parole. The length
15 of the detention period can range between one and 10 consecutive
16 days. Shorter, but if necessary more frequent, periods of detention
17 for violations of a parolee’s conditions of parole shall appropriately
18 punish a parolee while preventing the disruption in a work or home
19 establishment that typically arises from longer periods of detention.

20 (f) If the supervising parole agency has determined, following
21 application of its assessment processes, that intermediate sanctions
22 up to and including flash incarceration are not appropriate, the
23 supervising parole agency shall, pursuant to Section 1203.2,
24 petition the court in the county in which the parolee is being
25 supervised to revoke parole. At any point during the process
26 initiated pursuant to this section, a parolee may waive, in writing,
27 his or her right to counsel, admit the parole violation, waive a court
28 hearing, and accept the proposed parole modification or revocation.
29 The petition shall include a written report that contains additional
30 information regarding the petition, including the relevant terms
31 and conditions of parole, the circumstances of the alleged
32 underlying violation, the history and background of the parolee,
33 and any recommendations. The Judicial Council shall adopt forms
34 and rules of court to establish uniform statewide procedures to
35 implement this subdivision, including the minimum contents of
36 supervision agency reports. Upon a finding that the person has
37 violated the conditions of parole, the court shall have authority to
38 do any of the following:

1 (1) Return the person to parole supervision with modifications
2 of conditions, if appropriate, including a period of incarceration
3 in county jail.

4 (2) Revoke parole and order the person to confinement in the
5 county jail.

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

8 (4) Revoke parole and order the person returned to state prison
9 for a period of time not to exceed one year.

10 (g) Confinement pursuant to paragraphs (1) and (2) of
11 subdivision (f) shall not exceed a period of 180 days in the county
12 jail.

13 (h) Notwithstanding any other provision of law, in any case
14 where Section 3000.1 or paragraph (4) of subdivision (b) of Section
15 3000 applies to a person who is on parole and the court determines
16 that the person has committed a violation of law or violated his or
17 her conditions of parole, the person on parole shall be remanded
18 to the custody of the Department of Corrections and Rehabilitation
19 and the jurisdiction of the Board of Parole Hearings for the purpose
20 of future parole consideration.

21 (i) Notwithstanding subdivision (a), any of the following persons
22 released from state prison shall be subject to the jurisdiction of,
23 and parole supervision by, the Department of Corrections and
24 Rehabilitation for a period of parole up to three years or the parole
25 term the person was subject to at the time of the commission of
26 the offense, whichever is greater:

27 (1) The person is required to register as a sex offender pursuant
28 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part
29 1, and was subject to a period of parole exceeding three years at
30 the time he or she committed a felony for which ~~they were~~ *he or*
31 *she was* convicted and subsequently sentenced to state prison.

32 (2) The person was subject to parole for life pursuant to Section
33 3000.1 at the time of the commission of the offense that resulted
34 in a conviction and state prison sentence.

35 (j) Parolees subject to this section who have a pending
36 adjudication for a parole violation on July 1, 2013, shall be subject
37 to the jurisdiction of the Board of Parole Hearings. Parole
38 revocation proceedings conducted by the Board of Parole Hearings
39 prior to July 1, 2013, if reopened on or after July 1, 2013, shall be
40 subject to the jurisdiction of the Board of Parole Hearings.

1 (k) Except as described in subdivision (c), ~~any~~ a person who is
2 convicted of a felony that requires community supervision and
3 who still has a period of state parole to serve shall discharge from
4 state parole at the time of release to community supervision.

5 (l) This section shall become operative on July 1, 2013.

6 SEC. 2. Section 3056 of the Penal Code is amended to read:

7 3056. (a) ~~Prisoners~~ A *prisoner* on parole shall remain under
8 the supervision of the department but shall not be returned to prison
9 except as provided in subdivision (b) or as provided by subdivision
10 (f) of Section 3000.08 or subdivision (c) of Section 3000.09. A
11 parolee awaiting a parole revocation hearing may be housed in a
12 county jail while awaiting revocation proceedings. If a parolee is
13 housed in a county jail, he or she shall be housed in the county in
14 which he or she was arrested or the county in which a petition to
15 revoke parole has been filed or, if there is no county jail in that
16 county, in the housing facility with which that county has
17 contracted to house jail inmates. Additionally, except as provided
18 by subdivision (c) of Section 3000.09, upon revocation of parole,
19 a parolee may be housed in a county jail for a maximum of 180
20 days per revocation. When housed in county facilities, parolees
21 shall be under the sole legal custody and jurisdiction of local county
22 facilities. A parolee shall remain under the sole legal custody and
23 jurisdiction of the local county or local correctional administrator,
24 even if placed in an alternative custody program in lieu of
25 incarceration, including, but not limited to, work furlough and
26 electronic home detention. When a parolee is under the legal
27 custody and jurisdiction of a county facility awaiting parole
28 revocation proceedings or upon revocation, he or she shall not be
29 under the parole supervision or jurisdiction of the department.
30 When released from the county facility or county alternative
31 custody program following a period of custody for revocation of
32 parole or because no violation of parole is found, the parolee shall
33 be returned to the parole supervision of the department for the
34 duration of parole.

35 (b) Inmates paroled pursuant to Section 3000.1 may be returned
36 to prison following the revocation of parole by the Board of Parole
37 Hearings until July 1, 2013, and thereafter by a court pursuant to
38 Section 3000.08.

1 (c) A parolee who is subject to subdivision (a) but who is under
2 18 years of age may be housed in a facility of the Division of
3 Juvenile Facilities.

4 SEC. 3. On or before January 1, 2015, the Legislative Analyst's
5 Office shall produce a report, to be delivered to the Assembly, the
6 Senate, and the Governor's office, evaluating the criminal justice
7 realignment, specifically with regard to offenders under state
8 supervision, including rates of recidivism, figures on violation of
9 parole, the type and severity of reoffense leading to return to state
10 prison, the history of parole violation in those cases leading to a
11 return to state prison, and the adequacy of county facilities to
12 confine parole violators.