

AMENDED IN ASSEMBLY MAY 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 986

Introduced by Assembly Member Bradford

February 22, 2013

An act to amend Sections 3000.08, 3453, and 3454 of the Penal Code, relating to flash incarceration.

LEGISLATIVE COUNSEL'S DIGEST

AB 986, as amended, Bradford. Postrelease community supervision: flash incarceration: city jails.

Existing law requires that ~~specified~~ persons released from prison ~~on and after October 1, 2011~~, be subject *either to parole for a specified period of time or to postrelease community supervision for a period not exceeding 3 years*. Existing law specifies the conditions of postrelease community supervision and permits each county agency responsible for postrelease supervision to determine an ~~order~~ appropriate response to alleged violations, including flash incarceration in a county jail. *Existing law provides for review of an alleged parole violation and likewise allows the supervising parole agency to impose additional conditions of supervision, including flash incarceration in a county jail.* Existing law defines flash incarceration *for these purposes* as a period of detention in a county jail ranging from one to 10 days due to a violation of an offender's conditions of ~~postrelease supervision~~ *release*.

This bill would additionally permit flash incarceration in a city jail pursuant to the above provisions. The bill would make a conforming change. The bill would also make technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
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 released from state prison prior to or on
5 or after July 1, 2013, after serving a prison term or, whose sentence
6 has been deemed served pursuant to Section 2900.5, for any of the
7 following crimes shall be subject to parole supervision by the
8 Department of Corrections and Rehabilitation and the jurisdiction
9 of the court in the county where the parolee is released or resides
10 for the purpose of hearing petitions to revoke parole and impose
11 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 crime ~~where~~ *for which* the person eligible for release
20 from prison is classified as a ~~High Risk Sex Offender~~ *high-risk*
21 *sex offender*.

22 (5) Any crime ~~where~~ *for which* the person is required, as a
23 condition of parole, to undergo treatment by the ~~State Department~~
24 ~~of Mental Health~~ *State Hospitals* pursuant to Section 2962.

25 (b) Notwithstanding any other provision of law, all other
26 offenders released from prison shall be placed on postrelease
27 supervision pursuant to Title 2.05 (commencing with Section
28 3450).

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

37 (d) Upon review of the alleged violation and a finding of good
38 cause that the parolee has committed a violation of law or violated

1 his or her conditions of parole, the supervising parole agency may
2 impose additional and appropriate conditions of supervision,
3 including rehabilitation and treatment services and appropriate
4 incentives for compliance, and impose immediate, structured, and
5 intermediate sanctions for parole violations, including flash
6 incarceration in a *city or a* county jail. Periods of “flash
7 incarceration,” as defined in subdivision (e), are encouraged as
8 one method of punishment for violations of a parolee’s conditions
9 of parole. ~~Nothing in this~~ *This section is intended to does not*
10 preclude referrals to a reentry court pursuant to Section 3015.

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

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

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

1 (2) Revoke parole and order the person to confinement in the
2 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 (g) Confinement pursuant to paragraphs (1) and (2) of
6 subdivision (f) shall not exceed a period of 180 days in the county
7 jail.

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

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

22 (1) The person is required to register as a sex offender pursuant
23 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part
24 1, and was subject to a period of parole exceeding three years at
25 the time he or she committed a felony for which they were
26 convicted and subsequently sentenced to state prison.

27 (2) The person was subject to parole for life pursuant to Section
28 3000.1 at the time of the commission of the offense that resulted
29 in a conviction and state prison sentence.

30 (j) Parolees subject to this section who have a pending
31 adjudication for a parole violation on July 1, 2013, ~~shall be~~ *are*
32 subject to the jurisdiction of the Board of Parole Hearings. Parole
33 revocation proceedings conducted by the Board of Parole Hearings
34 prior to July 1, 2013, if reopened on or after July 1, 2013, ~~shall be~~
35 *are* subject to the jurisdiction of the Board of Parole Hearings.

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

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

1 SECTION 1.

2 SEC. 2. Section 3453 of the Penal Code is amended to read:

3 3453. Postrelease community supervision shall include the
4 following conditions:

5 (a) The person shall be informed of the conditions of release.

6 (b) The person shall obey all laws.

7 (c) The person shall report to the supervising county agency
8 within two working days of release from custody.

9 (d) The person shall follow the directives and instructions of
10 the supervising county agency.

11 (e) The person shall report to the supervising county agency as
12 directed by that agency.

13 (f) The person, and his or her residence and possessions, shall
14 be subject to search at any time of the day or night, with or without
15 a warrant, by an agent of the supervising county agency or by a
16 peace officer.

17 (g) The person shall waive extradition if found outside the state.

18 (h) The person shall inform the supervising county agency of
19 the person's place of residence, employment, education, or training.

20 (i) (1) The person shall inform the supervising county agency
21 of any pending or anticipated changes in residence, employment,
22 education, or training.

23 (2) If the person enters into new employment, he or she shall
24 inform the supervising county agency of the new employment
25 within three business days of that entry.

26 (j) The person shall immediately inform the supervising county
27 agency if he or she is arrested or receives a citation.

28 (k) The person shall obtain the permission of the supervising
29 county agency to travel more than 50 miles from the person's place
30 of residence.

31 (l) The person shall obtain a travel pass from the supervising
32 county agency before he or she may leave the county or state for
33 more than two days.

34 (m) The person shall not be in the presence of a firearm or
35 ammunition, or any item that appears to be a firearm or
36 ammunition.

37 (n) The person shall not possess, use, or have access to any
38 weapon listed in Section 16140, subdivision (c) of Section 16170,
39 Section 16220, 16260, 16320, 16330, or 16340, subdivision (b)
40 of Section 16460, Section 16470, subdivision (f) of Section 16520,

1 or Section 16570, 16740, 16760, 16830, 16920, 16930, 16940,
 2 17090, 17125, 17160, 17170, 17180, 17190, 17200, 17270, 17280,
 3 17330, 17350, 17360, 17700, 17705, 17710, 17715, 17720, 17725,
 4 17730, 17735, 17740, 17745, 19100, 19200, 19205, 20200, 20310,
 5 20410, 20510, 20610, 20611, 20710, 20910, 21110, 21310, 21810,
 6 22010, 22015, 22210, 22215, 22410, 24310, 24410, 24510, 24610,
 7 24680, 24710, 30210, 30215, 31500, 32310, 32400, 32405, 32410,
 8 32415, 32420, 32425, 32430 32435, 32440, 32445, 32450, 32900,
 9 33215, 33220, 33225, or 33600.

10 (o) (1) Except as provided in paragraph (2) and subdivision
 11 (p), the person shall not possess a knife with a blade longer than
 12 two inches.

13 (2) The person may possess a kitchen knife with a blade longer
 14 than two inches if the knife is used and kept only in the kitchen of
 15 the person’s residence.

16 (p) The person may use a knife with a blade longer than two
 17 inches, if the use is required for that person’s employment, the use
 18 has been approved in a document issued by the supervising county
 19 agency, and the person possesses the document of approval at all
 20 times and makes it available for inspection.

21 (q) The person shall waive any right to a court hearing prior to
 22 the imposition of a period of “flash incarceration” in a city or
 23 county jail of not more than 10 consecutive days for any violation
 24 of his or her postrelease supervision conditions.

25 (r) The person shall participate in rehabilitation programming
 26 as recommended by the supervising county agency.

27 (s) The person shall be subject to arrest with or without a warrant
 28 by a peace officer employed by the supervising county agency or,
 29 at the direction of the supervising county agency, by any peace
 30 officer when there is probable cause to believe the person has
 31 violated the terms and conditions of his or her release.

32 ~~SEC. 2.~~

33 *SEC. 3.* Section 3454 of the Penal Code is amended to read:

34 3454. (a) Each supervising county agency, as established by
 35 the county board of supervisors pursuant to subdivision (a) of
 36 Section 3451, shall establish a review process for assessing and
 37 refining a person’s program of postrelease supervision. Any
 38 additional postrelease supervision conditions shall be reasonably
 39 related to the underlying offense for which the offender spent time

1 in prison, or to the offender’s risk of recidivism, and the offender’s
2 criminal history, and be otherwise consistent with law.

3 (b) Each county agency responsible for postrelease supervision,
4 as established by the county board of supervisors pursuant to
5 subdivision (a) of Section 3451, may determine additional
6 appropriate conditions of supervision listed in Section 3453
7 consistent with public safety, including the use of continuous
8 electronic monitoring as defined in Section 1210.7, order the
9 provision of appropriate rehabilitation and treatment services,
10 determine appropriate incentives, and determine and order
11 appropriate responses to alleged violations, which can include, but
12 shall not be limited to, immediate, structured, and intermediate
13 sanctions up to and including referral to a reentry court pursuant
14 to Section 3015, or flash incarceration in a city or county jail.
15 Periods of flash incarceration are encouraged as one method of
16 punishment for violations of an offender’s condition of postrelease
17 supervision.

18 (c) As used in this title, “flash incarceration” is a period of
19 detention in a city or county jail due to a violation of an offender’s
20 conditions of postrelease supervision. The length of the detention
21 period can range between one and 10 consecutive days. Flash
22 incarceration is a tool that may be used by each county agency
23 responsible for postrelease supervision. Shorter, but if necessary
24 more frequent, periods of detention for violations of an offender’s
25 postrelease supervision conditions shall appropriately punish an
26 offender while preventing the disruption in a work or home
27 establishment that typically arises from longer term revocations.

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