

AMENDED IN SENATE SEPTEMBER 6, 2013

AMENDED IN ASSEMBLY MAY 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 986**

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**Introduced by Assembly Member Bradford**

February 22, 2013

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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 persons released from prison 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 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 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 9 of Chapter 32 of the Statutes of 2013, is amended to  
3 read:

4     3000.08. (a) A person released from state prison prior to or  
5 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 is subject to parole supervision by the  
8 Department of Corrections and Rehabilitation and the jurisdiction  
9 of the court in the county in which the parolee is released, resides,  
10 or in which an alleged violation of supervision has occurred, for  
11 the purpose of hearing petitions to revoke parole and impose a  
12 term of custody:

13     (1) A serious felony as described in subdivision (c) of Section  
14 1192.7.

15     (2) A violent felony as described in subdivision (c) of Section  
16 667.5.

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

20     (4) Any crime for which the person is classified as a high risk  
21 sex offender.

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

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

28     (c) At any time during the period of parole of a person subject  
29 to this section, if any parole agent or peace officer has probable  
30 cause to believe that the parolee is violating any 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 *city or a* county jail. Periods of “flash  
9 incarceration,” as defined in subdivision (e) are encouraged as one  
10 method of punishment for violations of a parolee’s conditions of  
11 parole. This section does not preclude referrals to a reentry court  
12 pursuant to Section 3015.

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

21 (f) If the supervising parole agency has determined, following  
22 application of its assessment processes, that intermediate sanctions  
23 up to and including flash incarceration are not appropriate, the  
24 supervising parole agency shall, pursuant to Section 1203.2,  
25 petition either the court in the county in which the parolee is being  
26 supervised or the court in the county in which the alleged violation  
27 of supervision occurred, to revoke parole. At any point during the  
28 process initiated pursuant to this section, a parolee may waive, in  
29 writing, his or her right to counsel, admit the parole violation,  
30 waive a court hearing, and accept the proposed parole modification  
31 or revocation. The petition shall include a written report that  
32 contains additional information regarding the petition, including  
33 the relevant terms and conditions of parole, the circumstances of  
34 the alleged underlying violation, the history and background of  
35 the parolee, and any recommendations. The Judicial Council shall  
36 adopt forms and rules of court to establish uniform statewide  
37 procedures to implement this subdivision, including the minimum  
38 contents of supervision agency reports. Upon a finding that the  
39 person has violated the conditions of parole, the court shall have  
40 authority to 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 (g) Confinement pursuant to paragraphs (1) and (2) of  
 9 subdivision (f) shall not exceed a period of 180 days in the county  
 10 jail.

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

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

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

30 (2) The person was subject to parole for life pursuant to Section  
 31 3000.1 at the time of the commission of the offense that resulted  
 32 in a conviction and state prison sentence.

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

39 (k) Except as described in subdivision (c), any person who is  
 40 convicted of a felony that requires community supervision and

1 who still has a period of state parole to serve shall discharge from  
2 state parole at the time of release to community supervision.

3 (l) Any person released to parole supervision pursuant to  
4 subdivision (a) shall, regardless of any subsequent determination  
5 that the person should have been released pursuant to subdivision  
6 (b), remain subject to subdivision (a) after having served 60 days  
7 under supervision pursuant to subdivision (a).

8 (m) This section shall become operative on July 1, 2013.

9 ~~SECTION 1. Section 3000.08 of the Penal Code, as amended~~  
10 ~~by Section 35 of Chapter 43 of the Statutes of 2012, is amended~~  
11 ~~to read:~~

12 ~~3000.08.—(a) Persons released from state prison prior to or on~~  
13 ~~or after July 1, 2013, after serving a prison term or, whose sentence~~  
14 ~~has been deemed served pursuant to Section 2900.5, for any of the~~  
15 ~~following crimes shall be subject to parole supervision by the~~  
16 ~~Department of Corrections and Rehabilitation and the jurisdiction~~  
17 ~~of the court in the county where the parolee is released or resides~~  
18 ~~for the purpose of hearing petitions to revoke parole and impose~~  
19 ~~a term of custody:~~

20 (1) ~~A serious felony as described in subdivision (c) of Section~~  
21 ~~1192.7.~~

22 (2) ~~A violent felony as described in subdivision (c) of Section~~  
23 ~~667.5.~~

24 (3) ~~A crime for which the person was sentenced pursuant to~~  
25 ~~paragraph (2) of subdivision (c) of Section 667 or paragraph (2)~~  
26 ~~of subdivision (c) of Section 1170.12.~~

27 (4) ~~Any crime for which the person eligible for release from~~  
28 ~~prison is classified as a high-risk sex offender.~~

29 (5) ~~Any crime for which the person is required, as a condition~~  
30 ~~of parole, to undergo treatment by the State Department of State~~  
31 ~~Hospitals pursuant to Section 2962.~~

32 (b) ~~Notwithstanding any other provision of law, all other~~  
33 ~~offenders released from prison shall be placed on postrelease~~  
34 ~~supervision pursuant to Title 2.05 (commencing with Section~~  
35 ~~3450).~~

36 (c) ~~At any time during the period of parole of a person subject~~  
37 ~~to this section, if any parole agent or peace officer has probable~~  
38 ~~cause to believe that the parolee is violating any term or condition~~  
39 ~~of his or her parole, the agent or officer may, without warrant or~~  
40 ~~other process and at any time until the final disposition of the case,~~

1 arrest the person and bring him or her before the court, or the court  
2 may, in its discretion, issue a warrant for that person's arrest  
3 pursuant to Section 1203.2.

4 (d) Upon review of the alleged violation and a finding of good  
5 cause that the parolee has committed a violation of law or violated  
6 his or her conditions of parole, the supervising parole agency may  
7 impose additional and appropriate conditions of supervision,  
8 including rehabilitation and treatment services and appropriate  
9 incentives for compliance, and impose immediate, structured, and  
10 intermediate sanctions for parole violations, including flash  
11 incarceration in a city or a county jail. Periods of "flash  
12 incarceration," as defined in subdivision (e), are encouraged as  
13 one method of punishment for violations of a parolee's conditions  
14 of parole. This section does not preclude referrals to a reentry court  
15 pursuant to Section 3015.

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

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

1 violated the conditions of parole, the court shall have authority to  
2 do any of the following:

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

6 (2) ~~Revoke parole and order the person to confinement in the~~  
7 ~~county jail.~~

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

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 law, if Section 3000.1 or~~  
14 ~~paragraph (4) of subdivision (b) of Section 3000 applies to a person~~  
15 ~~who is on parole and the court determines that the person has~~  
16 ~~committed a violation of law or violated his or her conditions of~~  
17 ~~parole, the person on parole shall be remanded to the custody of~~  
18 ~~the Department of Corrections and Rehabilitation and the~~  
19 ~~jurisdiction of the Board of Parole Hearings for the purpose of~~  
20 ~~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~~  
31 ~~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, are subject to~~  
37 ~~the jurisdiction of the Board of Parole Hearings. Parole revocation~~  
38 ~~proceedings conducted by the Board of Parole Hearings prior to~~  
39 ~~July 1, 2013, if reopened on or after July 1, 2013, are subject to~~  
40 ~~the jurisdiction of the Board of Parole Hearings.~~

- 1 ~~(k) Except as described in subdivision (c), any 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 3453 of the Penal Code is amended to read:  
 7 3453. Postrelease community supervision shall include the  
 8 following conditions:  
 9 (a) The person shall be informed of the conditions of release.  
 10 (b) The person shall obey all laws.  
 11 (c) The person shall report to the supervising county agency  
 12 within two working days of release from custody.  
 13 (d) The person shall follow the directives and instructions of  
 14 the supervising county agency.  
 15 (e) The person shall report to the supervising county agency as  
 16 directed by that agency.  
 17 (f) The person, and his or her residence and possessions, shall  
 18 be subject to search at any time of the day or night, with or without  
 19 a warrant, by an agent of the supervising county agency or by a  
 20 peace officer.  
 21 (g) The person shall waive extradition if found outside the state.  
 22 (h) The person shall inform the supervising county agency of  
 23 the person's place of residence, employment, education, or training.  
 24 (i) (1) The person shall inform the supervising county agency  
 25 of any pending or anticipated changes in residence, employment,  
 26 education, or training.  
 27 (2) If the person enters into new employment, he or she shall  
 28 inform the supervising county agency of the new employment  
 29 within three business days of that entry.  
 30 (j) The person shall immediately inform the supervising county  
 31 agency if he or she is arrested or receives a citation.  
 32 (k) The person shall obtain the permission of the supervising  
 33 county agency to travel more than 50 miles from the person's place  
 34 of residence.  
 35 (l) The person shall obtain a travel pass from the supervising  
 36 county agency before he or she may leave the county or state for  
 37 more than two days.  
 38 (m) The person shall not be in the presence of a firearm or  
 39 ammunition, or any item that appears to be a firearm or  
 40 ammunition.



1 (n) The person shall not possess, use, or have access to any  
2 weapon listed in Section 16140, subdivision (c) of Section 16170,  
3 Section 16220, 16260, 16320, 16330, or 16340, subdivision (b)  
4 of Section 16460, Section 16470, subdivision (f) of Section 16520,  
5 or Section 16570, 16740, 16760, 16830, 16920, 16930, 16940,  
6 17090, 17125, 17160, 17170, 17180, 17190, 17200, 17270, 17280,  
7 17330, 17350, 17360, 17700, 17705, 17710, 17715, 17720, 17725,  
8 17730, 17735, 17740, 17745, 19100, 19200, 19205, 20200, 20310,  
9 20410, 20510, 20610, 20611, 20710, 20910, 21110, 21310, 21810,  
10 22010, 22015, 22210, 22215, 22410, 24310, 24410, 24510, 24610,  
11 24680, 24710, 30210, 30215, 31500, 32310, 32400, 32405, 32410,  
12 32415, 32420, 32425, 32430, 32435, 32440, 32445, 32450, 32900,  
13 33215, 33220, 33225, or 33600.

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

17 (2) The person may possess a kitchen knife with a blade longer  
18 than two inches if the knife is used and kept only in the kitchen of  
19 the person's residence.

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

25 (q) The person shall waive any right to a court hearing prior to  
26 the imposition of a period of "flash incarceration" in a city or  
27 county jail of not more than 10 consecutive days for any violation  
28 of his or her postrelease supervision conditions.

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

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

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

37 3454. (a) Each supervising county agency, as established by  
38 the county board of supervisors pursuant to subdivision (a) of  
39 Section 3451, shall establish a review process for assessing and  
40 refining a person's program of postrelease supervision. Any

1 additional postrelease supervision conditions shall be reasonably  
2 related to the underlying offense for which the offender spent time  
3 in prison, or to the offender’s risk of recidivism, and the offender’s  
4 criminal history, and be otherwise consistent with law.

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

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