

Assembly Bill No. 986

Passed the Assembly September 12, 2013

Chief Clerk of the Assembly

Passed the Senate September 11, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 986, 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.

The people of the State of California do enact as follows:

SECTION 1. Section 3000.08 of the Penal Code, as amended by Section 9 of Chapter 32 of the Statutes of 2013, is amended to read:

3000.08. (a) A person released from state prison prior to or on or after July 1, 2013, after serving a prison term, or whose sentence has been deemed served pursuant to Section 2900.5, for any of the following crimes is subject to parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county in which the parolee is released, resides, or in which an alleged violation of supervision has occurred, for

the purpose of hearing petitions to revoke parole and impose a term of custody:

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

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

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

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

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

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

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

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

(e) "Flash incarceration" is a period of detention in a city or a county jail due to a violation of a parolee's conditions of parole. The length of the detention period can range between one and 10

consecutive days. Shorter, but if necessary more frequent, periods of detention for violations of a parolee's conditions of parole shall appropriately punish a parolee while preventing the disruption in a work or home establishment that typically arises from longer periods of detention.

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

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

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

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

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

(h) Notwithstanding any other law, if Section 3000.1 or paragraph (4) of subdivision (b) of Section 3000 applies to a person who is on parole and the court determines that the person has committed a violation of law or violated his or her conditions of parole, the person on parole shall be remanded to the custody of

the Department of Corrections and Rehabilitation and the jurisdiction of the Board of Parole Hearings for the purpose of future parole consideration.

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

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

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

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

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

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

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

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

3453. Postrelease community supervision shall include the following conditions:

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

(b) The person shall obey all laws.

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

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

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

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

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

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

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

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

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

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

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

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

(n) The person shall not possess, use, or have access to any weapon listed in Section 16140, subdivision (c) of Section 16170, Section 16220, 16260, 16320, 16330, or 16340, subdivision (b) of Section 16460, Section 16470, subdivision (f) of Section 16520, or Section 16570, 16740, 16760, 16830, 16920, 16930, 16940, 17090, 17125, 17160, 17170, 17180, 17190, 17200, 17270, 17280, 17330, 17350, 17360, 17700, 17705, 17710, 17715, 17720, 17725, 17730, 17735, 17740, 17745, 19100, 19200, 19205, 20200, 20310, 20410, 20510, 20610, 20611, 20710, 20910, 21110, 21310, 21810, 22010, 22015, 22210, 22215, 22410, 24310, 24410, 24510, 24610, 24680, 24710, 30210, 30215, 31500, 32310, 32400, 32405, 32410,

32415, 32420, 32425, 32430 32435, 32440, 32445, 32450, 32900, 33215, 33220, 33225, or 33600.

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

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

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

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

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

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

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

3454. (a) Each supervising county agency, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, shall establish a review process for assessing and refining a person's program of postrelease supervision. Any additional postrelease supervision conditions shall be reasonably related to the underlying offense for which the offender spent time in prison, or to the offender's risk of recidivism, and the offender's criminal history, and be otherwise consistent with law.

(b) Each county agency responsible for postrelease supervision, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, may determine additional appropriate conditions of supervision listed in Section 3453 consistent with public safety, including the use of continuous electronic monitoring as defined in Section 1210.7, order the provision of appropriate rehabilitation and treatment services,

determine appropriate incentives, and determine and order appropriate responses to alleged violations, which can include, but shall not be limited to, immediate, structured, and intermediate sanctions up to and including referral to a reentry court pursuant to Section 3015, or flash incarceration in a city or county jail. Periods of flash incarceration are encouraged as one method of punishment for violations of an offender's condition of postrelease supervision.

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

Approved _____, 2013

Governor