

ASSEMBLY BILL

No. 1449

Introduced by Assembly Member V. Manuel Pérez

January 7, 2014

An act to amend Sections 1170, 3000.08, 3451, and 3455 of the Penal Code, relating to punishment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1449, as introduced, V. Manuel Pérez. Realignment Omnibus Act of 2014.

(1) Under existing law, certain specified felonies are punishable by imprisonment in a county jail for 16 months, or 2 or 3 years or, where the term is specified, for the term described in the underlying offense. Notwithstanding these provisions, existing law requires that a sentence be served in state prison where the defendant has a prior or current conviction for a serious or violent felony, has a prior felony conviction in another jurisdiction that has all of the elements of a serious or violent felony, is required to register as a sex offender, or has an aggravated white collar crime enhancement imposed as part of the sentence.

This bill would additionally require a sentence to be served in the state prison when the defendant is convicted of a felony or felonies otherwise punishable in a county jail and is sentenced to an aggregate term of more than 3 years.

(2) Existing law requires that all persons released from prison after serving a prison term for a felony, be subject to postrelease community supervision provided by a county agency for a period of 3 years immediately following release, except for persons released after serving a term for a serious felony, a violent felony, an offense for which the person was sentenced pursuant to the 3 strikes law, a crime where the

person is classified as a high-risk sex offender, or a crime where the person is required to undergo treatment by the State Department of State Hospitals because the person has a severe mental disorder. Existing law requires these persons to be subject to parole supervision by the Department of Corrections and Rehabilitation following release from state prison 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.

This bill would also require any person who is released from prison who has a prior conviction for any of the above crimes to be subject to parole supervision by the department 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.

(3) Existing law, the Postrelease Community Supervision Act of 2011, requires certain inmates released from state prison to be subject to 3 years of supervision by a county agency. The act provides that if the supervising county agency has determined, following application of its assessment processes, that authorized intermediate sanctions are not appropriate, the supervising county agency is required to petition the revocation hearing officer to revoke and terminate postrelease supervision of the inmate. Existing law allows the revocation hearing officer to order the person to confinement in a county jail for a period not to exceed 180 days, among other sanctions.

This bill would, if the person has been found to have violated the conditions of postrelease community supervision on 2 or more prior occasions, allow the revocation hearing officer to revoke and terminate postrelease community supervision and order the person to confinement in the state prison for a period of one year.

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. This act shall be known, and may be cited as, the
- 2 Realignment Omnibus Act of 2014.
- 3 SEC. 2. Section 1170 of the Penal Code, as amended by Section
- 4 5 of Chapter 508 of the Statutes of 2013, is amended to read:
- 5 1170. (a) (1) The Legislature finds and declares that the
- 6 purpose of imprisonment for crime is punishment. This purpose
- 7 is best served by terms proportionate to the seriousness of the

1 offense with provision for uniformity in the sentences of offenders
2 committing the same offense under similar circumstances. The
3 Legislature further finds and declares that the elimination of
4 disparity and the provision of uniformity of sentences can best be
5 achieved by determinate sentences fixed by statute in proportion
6 to the seriousness of the offense as determined by the Legislature
7 to be imposed by the court with specified discretion.

8 (2) Notwithstanding paragraph (1), the Legislature further finds
9 and declares that programs should be available for inmates,
10 including, but not limited to, educational programs, that are
11 designed to prepare nonviolent felony offenders for successful
12 reentry into the community. The Legislature encourages the
13 development of policies and programs designed to educate and
14 rehabilitate nonviolent felony offenders. In implementing this
15 section, the Department of Corrections and Rehabilitation is
16 encouraged to give priority enrollment in programs to promote
17 successful return to the community to an inmate with a short
18 remaining term of commitment and a release date that would allow
19 him or her adequate time to complete the program.

20 (3) In any case in which the punishment prescribed by statute
21 for a person convicted of a public offense is a term of imprisonment
22 in the state prison of any specification of three time periods, the
23 court shall sentence the defendant to one of the terms of
24 imprisonment specified unless the convicted person is given any
25 other disposition provided by law, including a fine, jail, probation,
26 or the suspension of imposition or execution of sentence or is
27 sentenced pursuant to subdivision (b) of Section 1168 because he
28 or she had committed his or her crime prior to July 1, 1977. In
29 sentencing the convicted person, the court shall apply the
30 sentencing rules of the Judicial Council. The court, unless it
31 determines that there are circumstances in mitigation of the
32 punishment prescribed, shall also impose any other term that it is
33 required by law to impose as an additional term. Nothing in this
34 article shall affect any provision of law that imposes the death
35 penalty, that authorizes or restricts the granting of probation or
36 suspending the execution or imposition of sentence, or expressly
37 provides for imprisonment in the state prison for life, except as
38 provided in paragraph (2) of subdivision (d). In any case in which
39 the amount of preimprisonment credit under Section 2900.5 or any
40 other provision of law is equal to or exceeds any sentence imposed

1 pursuant to this chapter, the entire sentence shall be deemed to
2 have been served and the defendant shall not be actually delivered
3 to the custody of the secretary. The court shall advise the defendant
4 that he or she shall serve a period of parole and order the defendant
5 to report to the parole office closest to the defendant's last legal
6 residence, unless the in-custody credits equal the total sentence,
7 including both confinement time and the period of parole. The
8 sentence shall be deemed a separate prior prison term under Section
9 667.5, and a copy of the judgment and other necessary
10 documentation shall be forwarded to the secretary.

11 (b) When a judgment of imprisonment is to be imposed and the
12 statute specifies three possible terms, the choice of the appropriate
13 term shall rest within the sound discretion of the court. At least
14 four days prior to the time set for imposition of judgment, either
15 party or the victim, or the family of the victim if the victim is
16 deceased, may submit a statement in aggravation or mitigation. In
17 determining the appropriate term, the court may consider the record
18 in the case, the probation officer's report, other reports, including
19 reports received pursuant to Section 1203.03, and statements in
20 aggravation or mitigation submitted by the prosecution, the
21 defendant, or the victim, or the family of the victim if the victim
22 is deceased, and any further evidence introduced at the sentencing
23 hearing. The court shall select the term which, in the court's
24 discretion, best serves the interests of justice. The court shall set
25 forth on the record the reasons for imposing the term selected and
26 the court may not impose an upper term by using the fact of any
27 enhancement upon which sentence is imposed under any provision
28 of law. A term of imprisonment shall not be specified if imposition
29 of sentence is suspended.

30 (c) The court shall state the reasons for its sentence choice on
31 the record at the time of sentencing. The court shall also inform
32 the defendant that as part of the sentence after expiration of the
33 term he or she may be on parole for a period as provided in Section
34 3000.

35 (d) (1) When a defendant subject to this section or subdivision
36 (b) of Section 1168 has been sentenced to be imprisoned in the
37 state prison and has been committed to the custody of the secretary,
38 the court may, within 120 days of the date of commitment on its
39 own motion, or at any time upon the recommendation of the
40 secretary or the Board of Parole Hearings, recall the sentence and

1 commitment previously ordered and resentence the defendant in
2 the same manner as if he or she had not previously been sentenced,
3 provided the new sentence, if any, is no greater than the initial
4 sentence. The court resentencing under this subdivision shall apply
5 the sentencing rules of the Judicial Council so as to eliminate
6 disparity of sentences and to promote uniformity of sentencing.
7 Credit shall be given for time served.

8 (2) (A) (i) When a defendant who was under 18 years of age
9 at the time of the commission of the offense for which the
10 defendant was sentenced to imprisonment for life without the
11 possibility of parole has served at least 15 years of that sentence,
12 the defendant may submit to the sentencing court a petition for
13 recall and resentencing.

14 (ii) Notwithstanding clause (i), this paragraph shall not apply
15 to defendants sentenced to life without parole for an offense where
16 the defendant tortured, as described in Section 206, his or her
17 victim or the victim was a public safety official, including any law
18 enforcement personnel mentioned in Chapter 4.5 (commencing
19 with Section 830) of Title 3, or any firefighter as described in
20 Section 245.1, as well as any other officer in any segment of law
21 enforcement who is employed by the federal government, the state,
22 or any of its political subdivisions.

23 (B) The defendant shall file the original petition with the
24 sentencing court. A copy of the petition shall be served on the
25 agency that prosecuted the case. The petition shall include the
26 defendant's statement that he or she was under 18 years of age at
27 the time of the crime and was sentenced to life in prison without
28 the possibility of parole, the defendant's statement describing his
29 or her remorse and work towards rehabilitation, and the defendant's
30 statement that one of the following is true:

31 (i) The defendant was convicted pursuant to felony murder or
32 aiding and abetting murder provisions of law.

33 (ii) The defendant does not have juvenile felony adjudications
34 for assault or other felony crimes with a significant potential for
35 personal harm to victims prior to the offense for which the sentence
36 is being considered for recall.

37 (iii) The defendant committed the offense with at least one adult
38 codefendant.

39 (iv) The defendant has performed acts that tend to indicate
40 rehabilitation or the potential for rehabilitation, including, but not

1 limited to, availing himself or herself of rehabilitative, educational,
2 or vocational programs, if those programs have been available at
3 his or her classification level and facility, using self-study for
4 self-improvement, or showing evidence of remorse.

5 (C) If any of the information required in subparagraph (B) is
6 missing from the petition, or if proof of service on the prosecuting
7 agency is not provided, the court shall return the petition to the
8 defendant and advise the defendant that the matter cannot be
9 considered without the missing information.

10 (D) A reply to the petition, if any, shall be filed with the court
11 within 60 days of the date on which the prosecuting agency was
12 served with the petition, unless a continuance is granted for good
13 cause.

14 (E) If the court finds by a preponderance of the evidence that
15 the statements in the petition are true, the court shall hold a hearing
16 to consider whether to recall the sentence and commitment
17 previously ordered and to resentence the defendant in the same
18 manner as if the defendant had not previously been sentenced,
19 provided that the new sentence, if any, is not greater than the initial
20 sentence. Victims, or victim family members if the victim is
21 deceased, shall retain the rights to participate in the hearing.

22 (F) The factors that the court may consider when determining
23 whether to recall and resentence include, but are not limited to,
24 the following:

25 (i) The defendant was convicted pursuant to felony murder or
26 aiding and abetting murder provisions of law.

27 (ii) The defendant does not have juvenile felony adjudications
28 for assault or other felony crimes with a significant potential for
29 personal harm to victims prior to the offense for which the sentence
30 is being considered for recall.

31 (iii) The defendant committed the offense with at least one adult
32 codefendant.

33 (iv) Prior to the offense for which the sentence is being
34 considered for recall, the defendant had insufficient adult support
35 or supervision and had suffered from psychological or physical
36 trauma, or significant stress.

37 (v) The defendant suffers from cognitive limitations due to
38 mental illness, developmental disabilities, or other factors that did
39 not constitute a defense, but influenced the defendant's
40 involvement in the offense.

1 (vi) The defendant has performed acts that tend to indicate
2 rehabilitation or the potential for rehabilitation, including, but not
3 limited to, availing himself or herself of rehabilitative, educational,
4 or vocational programs, if those programs have been available at
5 his or her classification level and facility, using self-study for
6 self-improvement, or showing evidence of remorse.

7 (vii) The defendant has maintained family ties or connections
8 with others through letter writing, calls, or visits, or has eliminated
9 contact with individuals outside of prison who are currently
10 involved with crime.

11 (viii) The defendant has had no disciplinary actions for violent
12 activities in the last five years in which the defendant was
13 determined to be the aggressor.

14 (G) The court shall have the discretion to recall the sentence
15 and commitment previously ordered and to resentence the
16 defendant in the same manner as if the defendant had not
17 previously been sentenced, provided that the new sentence, if any,
18 is not greater than the initial sentence. The discretion of the court
19 shall be exercised in consideration of the criteria in subparagraph
20 (B). Victims, or victim family members if the victim is deceased,
21 shall be notified of the resentencing hearing and shall retain their
22 rights to participate in the hearing.

23 (H) If the sentence is not recalled, the defendant may submit
24 another petition for recall and resentencing to the sentencing court
25 when the defendant has been committed to the custody of the
26 department for at least 20 years. If recall and resentencing is not
27 granted under that petition, the defendant may file another petition
28 after having served 24 years. The final petition may be submitted,
29 and the response to that petition shall be determined, during the
30 25th year of the defendant's sentence.

31 (I) In addition to the criteria in subparagraph (F), the court may
32 consider any other criteria that the court deems relevant to its
33 decision, so long as the court identifies them on the record,
34 provides a statement of reasons for adopting them, and states why
35 the defendant does or does not satisfy the criteria.

36 (J) This subdivision shall have retroactive application.

37 (e) (1) Notwithstanding any other law and consistent with
38 paragraph (1) of subdivision (a), if the secretary or the Board of
39 Parole Hearings or both determine that a prisoner satisfies the

1 criteria set forth in paragraph (2), the secretary or the board may
2 recommend to the court that the prisoner's sentence be recalled.

3 (2) The court shall have the discretion to resentence or recall if
4 the court finds that the facts described in subparagraphs (A) and
5 (B) or subparagraphs (B) and (C) exist:

6 (A) The prisoner is terminally ill with an incurable condition
7 caused by an illness or disease that would produce death within
8 six months, as determined by a physician employed by the
9 department.

10 (B) The conditions under which the prisoner would be released
11 or receive treatment do not pose a threat to public safety.

12 (C) The prisoner is permanently medically incapacitated with
13 a medical condition that renders him or her permanently unable
14 to perform activities of basic daily living, and results in the prisoner
15 requiring 24-hour total care, including, but not limited to, coma,
16 persistent vegetative state, brain death, ventilator-dependency, loss
17 of control of muscular or neurological function, and that
18 incapacitation did not exist at the time of the original sentencing.

19 The Board of Parole Hearings shall make findings pursuant to
20 this subdivision before making a recommendation for resentence
21 or recall to the court. This subdivision does not apply to a prisoner
22 sentenced to death or a term of life without the possibility of parole.

23 (3) Within 10 days of receipt of a positive recommendation by
24 the secretary or the board, the court shall hold a hearing to consider
25 whether the prisoner's sentence should be recalled.

26 (4) Any physician employed by the department who determines
27 that a prisoner has six months or less to live shall notify the chief
28 medical officer of the prognosis. If the chief medical officer
29 concurs with the prognosis, he or she shall notify the warden.
30 Within 48 hours of receiving notification, the warden or the
31 warden's representative shall notify the prisoner of the recall and
32 resentencing procedures, and shall arrange for the prisoner to
33 designate a family member or other outside agent to be notified
34 as to the prisoner's medical condition and prognosis, and as to the
35 recall and resentencing procedures. If the inmate is deemed
36 mentally unfit, the warden or the warden's representative shall
37 contact the inmate's emergency contact and provide the information
38 described in paragraph (2).

39 (5) The warden or the warden's representative shall provide the
40 prisoner and his or her family member, agent, or emergency

1 contact, as described in paragraph (4), updated information
2 throughout the recall and resentencing process with regard to the
3 prisoner's medical condition and the status of the prisoner's recall
4 and resentencing proceedings.

5 (6) Notwithstanding any other provisions of this section, the
6 prisoner or his or her family member or designee may
7 independently request consideration for recall and resentencing
8 by contacting the chief medical officer at the prison or the
9 secretary. Upon receipt of the request, the chief medical officer
10 and the warden or the warden's representative shall follow the
11 procedures described in paragraph (4). If the secretary determines
12 that the prisoner satisfies the criteria set forth in paragraph (2), the
13 secretary or board may recommend to the court that the prisoner's
14 sentence be recalled. The secretary shall submit a recommendation
15 for release within 30 days in the case of inmates sentenced to
16 determinate terms and, in the case of inmates sentenced to
17 indeterminate terms, the secretary shall make a recommendation
18 to the Board of Parole Hearings with respect to the inmates who
19 have applied under this section. The board shall consider this
20 information and make an independent judgment pursuant to
21 paragraph (2) and make findings related thereto before rejecting
22 the request or making a recommendation to the court. This action
23 shall be taken at the next lawfully noticed board meeting.

24 (7) Any recommendation for recall submitted to the court by
25 the secretary or the Board of Parole Hearings shall include one or
26 more medical evaluations, a postrelease plan, and findings pursuant
27 to paragraph (2).

28 (8) If possible, the matter shall be heard before the same judge
29 of the court who sentenced the prisoner.

30 (9) If the court grants the recall and resentencing application,
31 the prisoner shall be released by the department within 48 hours
32 of receipt of the court's order, unless a longer time period is agreed
33 to by the inmate. At the time of release, the warden or the warden's
34 representative shall ensure that the prisoner has each of the
35 following in his or her possession: a discharge medical summary,
36 full medical records, state identification, parole medications, and
37 all property belonging to the prisoner. After discharge, any
38 additional records shall be sent to the prisoner's forwarding
39 address.

1 (10) The secretary shall issue a directive to medical and
2 correctional staff employed by the department that details the
3 guidelines and procedures for initiating a recall and resentencing
4 procedure. The directive shall clearly state that any prisoner who
5 is given a prognosis of six months or less to live is eligible for
6 recall and resentencing consideration, and that recall and
7 resentencing procedures shall be initiated upon that prognosis.

8 (f) Notwithstanding any other provision of this section, for
9 purposes of paragraph (3) of subdivision (h), any allegation that
10 a defendant is eligible for state prison due to a prior or current
11 conviction, sentence enhancement, or because he or she is required
12 to register as a sex offender shall not be subject to dismissal
13 pursuant to Section 1385.

14 (g) A sentence to state prison for a determinate term for which
15 only one term is specified, is a sentence to state prison under this
16 section.

17 (h) (1) Except as provided in paragraph (3), a felony punishable
18 pursuant to this subdivision where the term is not specified in the
19 underlying offense shall be punishable by a term of imprisonment
20 in a county jail for 16 months, or two or three years.

21 (2) Except as provided in paragraph (3), a felony punishable
22 pursuant to this subdivision shall be punishable by imprisonment
23 in a county jail for the term described in the underlying offense.

24 (3) Notwithstanding paragraphs (1) and (2), where the defendant
25 (A) has a prior or current felony conviction for a serious felony
26 described in subdivision (c) of Section 1192.7 or a prior or current
27 conviction for a violent felony described in subdivision (c) of
28 Section 667.5, (B) has a prior felony conviction in another
29 jurisdiction for an offense that has all the elements of a serious
30 felony described in subdivision (c) of Section 1192.7 or a violent
31 felony described in subdivision (c) of Section 667.5, (C) is required
32 to register as a sex offender pursuant to Chapter 5.5 (commencing
33 with Section 290) of Title 9 of Part 1, ~~or~~ (D) is convicted of a crime
34 and as part of the sentence an enhancement pursuant to Section
35 186.11 is imposed, *or (E) is convicted of a felony or felonies*
36 *punishable pursuant to this subdivision and is sentenced to an*
37 *aggregate term of more than three years*, an executed sentence for
38 a felony punishable pursuant to this subdivision shall be served in
39 state prison.

1 (4) Nothing in this subdivision shall be construed to prevent
2 other dispositions authorized by law, including pretrial diversion,
3 deferred entry of judgment, or an order granting probation pursuant
4 to Section 1203.1.

5 (5) The court, when imposing a sentence pursuant to paragraph
6 (1) or (2) of this subdivision, may commit the defendant to county
7 jail as follows:

8 (A) For a full term in custody as determined in accordance with
9 the applicable sentencing law.

10 (B) (i) For a term as determined in accordance with the
11 applicable sentencing law, but suspend execution of a concluding
12 portion of the term selected in the court's discretion, during which
13 time the defendant shall be supervised by the county probation
14 officer in accordance with the terms, conditions, and procedures
15 generally applicable to persons placed on probation, for the
16 remaining unserved portion of the sentence imposed by the court.
17 The period of supervision shall be mandatory, and may not be
18 earlier terminated except by court order. Any proceeding to revoke
19 or modify mandatory supervision under this subparagraph shall
20 be conducted pursuant to either subdivisions (a) and (b) of Section
21 1203.2 or Section 1203.3. During the period when the defendant
22 is under such supervision, unless in actual custody related to the
23 sentence imposed by the court, the defendant shall be entitled to
24 only actual time credit against the term of imprisonment imposed
25 by the court. Any time period which is suspended because a person
26 has absconded shall not be credited toward the period of
27 supervision.

28 (ii) The portion of a defendant's sentenced term during which
29 time he or she is supervised by the county probation officer
30 pursuant to this subparagraph shall be known as mandatory
31 supervision.

32 (6) The sentencing changes made by the act that added this
33 subdivision shall be applied prospectively to any person sentenced
34 on or after October 1, 2011.

35 (i) This section shall remain in effect only until January 1, 2017,
36 and as of that date is repealed, unless a later enacted statute, that
37 is enacted before that date, deletes or extends that date.

38 SEC. 3. Section 1170 of the Penal Code, as amended by Section
39 6 of Chapter 508 of the Statutes of 2013, is amended to read:

1 1170. (a) (1) The Legislature finds and declares that the
2 purpose of imprisonment for crime is punishment. This purpose
3 is best served by terms proportionate to the seriousness of the
4 offense with provision for uniformity in the sentences of offenders
5 committing the same offense under similar circumstances. The
6 Legislature further finds and declares that the elimination of
7 disparity and the provision of uniformity of sentences can best be
8 achieved by determinate sentences fixed by statute in proportion
9 to the seriousness of the offense as determined by the Legislature
10 to be imposed by the court with specified discretion.

11 (2) Notwithstanding paragraph (1), the Legislature further finds
12 and declares that programs should be available for inmates,
13 including, but not limited to, educational programs, that are
14 designed to prepare nonviolent felony offenders for successful
15 reentry into the community. The Legislature encourages the
16 development of policies and programs designed to educate and
17 rehabilitate nonviolent felony offenders. In implementing this
18 section, the Department of Corrections and Rehabilitation is
19 encouraged to give priority enrollment in programs to promote
20 successful return to the community to an inmate with a short
21 remaining term of commitment and a release date that would allow
22 him or her adequate time to complete the program.

23 (3) In any case in which the punishment prescribed by statute
24 for a person convicted of a public offense is a term of imprisonment
25 in the state prison of any specification of three time periods, the
26 court shall sentence the defendant to one of the terms of
27 imprisonment specified unless the convicted person is given any
28 other disposition provided by law, including a fine, jail, probation,
29 or the suspension of imposition or execution of sentence or is
30 sentenced pursuant to subdivision (b) of Section 1168 because he
31 or she had committed his or her crime prior to July 1, 1977. In
32 sentencing the convicted person, the court shall apply the
33 sentencing rules of the Judicial Council. The court, unless it
34 determines that there are circumstances in mitigation of the
35 punishment prescribed, shall also impose any other term that it is
36 required by law to impose as an additional term. Nothing in this
37 article shall affect any provision of law that imposes the death
38 penalty, that authorizes or restricts the granting of probation or
39 suspending the execution or imposition of sentence, or expressly
40 provides for imprisonment in the state prison for life, except as

1 provided in paragraph (2) of subdivision (d). In any case in which
2 the amount of preimprisonment credit under Section 2900.5 or any
3 other provision of law is equal to or exceeds any sentence imposed
4 pursuant to this chapter, the entire sentence shall be deemed to
5 have been served and the defendant shall not be actually delivered
6 to the custody of the secretary. The court shall advise the defendant
7 that he or she shall serve a period of parole and order the defendant
8 to report to the parole office closest to the defendant's last legal
9 residence, unless the in-custody credits equal the total sentence,
10 including both confinement time and the period of parole. The
11 sentence shall be deemed a separate prior prison term under Section
12 667.5, and a copy of the judgment and other necessary
13 documentation shall be forwarded to the secretary.

14 (b) When a judgment of imprisonment is to be imposed and the
15 statute specifies three possible terms, the court shall order
16 imposition of the middle term, unless there are circumstances in
17 aggravation or mitigation of the crime. At least four days prior to
18 the time set for imposition of judgment, either party or the victim,
19 or the family of the victim if the victim is deceased, may submit
20 a statement in aggravation or mitigation to dispute facts in the
21 record or the probation officer's report, or to present additional
22 facts. In determining whether there are circumstances that justify
23 imposition of the upper or lower term, the court may consider the
24 record in the case, the probation officer's report, other reports,
25 including reports received pursuant to Section 1203.03, and
26 statements in aggravation or mitigation submitted by the
27 prosecution, the defendant, or the victim, or the family of the victim
28 if the victim is deceased, and any further evidence introduced at
29 the sentencing hearing. The court shall set forth on the record the
30 facts and reasons for imposing the upper or lower term. The court
31 may not impose an upper term by using the fact of any
32 enhancement upon which sentence is imposed under any provision
33 of law. A term of imprisonment shall not be specified if imposition
34 of sentence is suspended.

35 (c) The court shall state the reasons for its sentence choice on
36 the record at the time of sentencing. The court shall also inform
37 the defendant that as part of the sentence after expiration of the
38 term he or she may be on parole for a period as provided in Section
39 3000.

1 (d) (1) When a defendant subject to this section or subdivision
2 (b) of Section 1168 has been sentenced to be imprisoned in the
3 state prison and has been committed to the custody of the secretary,
4 the court may, within 120 days of the date of commitment on its
5 own motion, or at any time upon the recommendation of the
6 secretary or the Board of Parole Hearings, recall the sentence and
7 commitment previously ordered and resentence the defendant in
8 the same manner as if he or she had not previously been sentenced,
9 provided the new sentence, if any, is no greater than the initial
10 sentence. The court resentencing under this subdivision shall apply
11 the sentencing rules of the Judicial Council so as to eliminate
12 disparity of sentences and to promote uniformity of sentencing.
13 Credit shall be given for time served.

14 (2) (A) (i) When a defendant who was under 18 years of age
15 at the time of the commission of the offense for which the
16 defendant was sentenced to imprisonment for life without the
17 possibility of parole has served at least 15 years of that sentence,
18 the defendant may submit to the sentencing court a petition for
19 recall and resentencing.

20 (ii) Notwithstanding clause (i), this paragraph shall not apply
21 to defendants sentenced to life without parole for an offense where
22 the defendant tortured, as described in Section 206, his or her
23 victim or the victim was a public safety official, including any law
24 enforcement personnel mentioned in Chapter 4.5 (commencing
25 with Section 830) of Title 3, or any firefighter as described in
26 Section 245.1, as well as any other officer in any segment of law
27 enforcement who is employed by the federal government, the state,
28 or any of its political subdivisions.

29 (B) The defendant shall file the original petition with the
30 sentencing court. A copy of the petition shall be served on the
31 agency that prosecuted the case. The petition shall include the
32 defendant's statement that he or she was under 18 years of age at
33 the time of the crime and was sentenced to life in prison without
34 the possibility of parole, the defendant's statement describing his
35 or her remorse and work towards rehabilitation, and the defendant's
36 statement that one of the following is true:

37 (i) The defendant was convicted pursuant to felony murder or
38 aiding and abetting murder provisions of law.

39 (ii) The defendant does not have juvenile felony adjudications
40 for assault or other felony crimes with a significant potential for

1 personal harm to victims prior to the offense for which the sentence
2 is being considered for recall.

3 (iii) The defendant committed the offense with at least one adult
4 codefendant.

5 (iv) The defendant has performed acts that tend to indicate
6 rehabilitation or the potential for rehabilitation, including, but not
7 limited to, availing himself or herself of rehabilitative, educational,
8 or vocational programs, if those programs have been available at
9 his or her classification level and facility, using self-study for
10 self-improvement, or showing evidence of remorse.

11 (C) If any of the information required in subparagraph (B) is
12 missing from the petition, or if proof of service on the prosecuting
13 agency is not provided, the court shall return the petition to the
14 defendant and advise the defendant that the matter cannot be
15 considered without the missing information.

16 (D) A reply to the petition, if any, shall be filed with the court
17 within 60 days of the date on which the prosecuting agency was
18 served with the petition, unless a continuance is granted for good
19 cause.

20 (E) If the court finds by a preponderance of the evidence that
21 the statements in the petition are true, the court shall hold a hearing
22 to consider whether to recall the sentence and commitment
23 previously ordered and to resentence the defendant in the same
24 manner as if the defendant had not previously been sentenced,
25 provided that the new sentence, if any, is not greater than the initial
26 sentence. Victims, or victim family members if the victim is
27 deceased, shall retain the rights to participate in the hearing.

28 (F) The factors that the court may consider when determining
29 whether to recall and resentence include, but are not limited to,
30 the following:

31 (i) The defendant was convicted pursuant to felony murder or
32 aiding and abetting murder provisions of law.

33 (ii) The defendant does not have juvenile felony adjudications
34 for assault or other felony crimes with a significant potential for
35 personal harm to victims prior to the offense for which the sentence
36 is being considered for recall.

37 (iii) The defendant committed the offense with at least one adult
38 codefendant.

39 (iv) Prior to the offense for which the sentence is being
40 considered for recall, the defendant had insufficient adult support

1 or supervision and had suffered from psychological or physical
2 trauma, or significant stress.

3 (v) The defendant suffers from cognitive limitations due to
4 mental illness, developmental disabilities, or other factors that did
5 not constitute a defense, but influenced the defendant's
6 involvement in the offense.

7 (vi) The defendant has performed acts that tend to indicate
8 rehabilitation or the potential for rehabilitation, including, but not
9 limited to, availing himself or herself of rehabilitative, educational,
10 or vocational programs, if those programs have been available at
11 his or her classification level and facility, using self-study for
12 self-improvement, or showing evidence of remorse.

13 (vii) The defendant has maintained family ties or connections
14 with others through letter writing, calls, or visits, or has eliminated
15 contact with individuals outside of prison who are currently
16 involved with crime.

17 (viii) The defendant has had no disciplinary actions for violent
18 activities in the last five years in which the defendant was
19 determined to be the aggressor.

20 (G) The court shall have the discretion to recall the sentence
21 and commitment previously ordered and to resentence the
22 defendant in the same manner as if the defendant had not
23 previously been sentenced, provided that the new sentence, if any,
24 is not greater than the initial sentence. The discretion of the court
25 shall be exercised in consideration of the criteria in subparagraph
26 (B). Victims, or victim family members if the victim is deceased,
27 shall be notified of the resentencing hearing and shall retain their
28 rights to participate in the hearing.

29 (H) If the sentence is not recalled, the defendant may submit
30 another petition for recall and resentencing to the sentencing court
31 when the defendant has been committed to the custody of the
32 department for at least 20 years. If recall and resentencing is not
33 granted under that petition, the defendant may file another petition
34 after having served 24 years. The final petition may be submitted,
35 and the response to that petition shall be determined, during the
36 25th year of the defendant's sentence.

37 (I) In addition to the criteria in subparagraph (F), the court may
38 consider any other criteria that the court deems relevant to its
39 decision, so long as the court identifies them on the record,

1 provides a statement of reasons for adopting them, and states why
2 the defendant does or does not satisfy the criteria.

3 (J) This subdivision shall have retroactive application.

4 (e) (1) Notwithstanding any other law and consistent with
5 paragraph (1) of subdivision (a), if the secretary or the Board of
6 Parole Hearings or both determine that a prisoner satisfies the
7 criteria set forth in paragraph (2), the secretary or the board may
8 recommend to the court that the prisoner's sentence be recalled.

9 (2) The court shall have the discretion to resentence or recall if
10 the court finds that the facts described in subparagraphs (A) and
11 (B) or subparagraphs (B) and (C) exist:

12 (A) The prisoner is terminally ill with an incurable condition
13 caused by an illness or disease that would produce death within
14 six months, as determined by a physician employed by the
15 department.

16 (B) The conditions under which the prisoner would be released
17 or receive treatment do not pose a threat to public safety.

18 (C) The prisoner is permanently medically incapacitated with
19 a medical condition that renders him or her permanently unable
20 to perform activities of basic daily living, and results in the prisoner
21 requiring 24-hour total care, including, but not limited to, coma,
22 persistent vegetative state, brain death, ventilator-dependency, loss
23 of control of muscular or neurological function, and that
24 incapacitation did not exist at the time of the original sentencing.

25 The Board of Parole Hearings shall make findings pursuant to
26 this subdivision before making a recommendation for resentence
27 or recall to the court. This subdivision does not apply to a prisoner
28 sentenced to death or a term of life without the possibility of parole.

29 (3) Within 10 days of receipt of a positive recommendation by
30 the secretary or the board, the court shall hold a hearing to consider
31 whether the prisoner's sentence should be recalled.

32 (4) Any physician employed by the department who determines
33 that a prisoner has six months or less to live shall notify the chief
34 medical officer of the prognosis. If the chief medical officer
35 concurs with the prognosis, he or she shall notify the warden.
36 Within 48 hours of receiving notification, the warden or the
37 warden's representative shall notify the prisoner of the recall and
38 resentencing procedures, and shall arrange for the prisoner to
39 designate a family member or other outside agent to be notified
40 as to the prisoner's medical condition and prognosis, and as to the

1 recall and resentencing procedures. If the inmate is deemed
2 mentally unfit, the warden or the warden's representative shall
3 contact the inmate's emergency contact and provide the information
4 described in paragraph (2).

5 (5) The warden or the warden's representative shall provide the
6 prisoner and his or her family member, agent, or emergency
7 contact, as described in paragraph (4), updated information
8 throughout the recall and resentencing process with regard to the
9 prisoner's medical condition and the status of the prisoner's recall
10 and resentencing proceedings.

11 (6) Notwithstanding any other provisions of this section, the
12 prisoner or his or her family member or designee may
13 independently request consideration for recall and resentencing
14 by contacting the chief medical officer at the prison or the
15 secretary. Upon receipt of the request, the chief medical officer
16 and the warden or the warden's representative shall follow the
17 procedures described in paragraph (4). If the secretary determines
18 that the prisoner satisfies the criteria set forth in paragraph (2), the
19 secretary or board may recommend to the court that the prisoner's
20 sentence be recalled. The secretary shall submit a recommendation
21 for release within 30 days in the case of inmates sentenced to
22 determinate terms and, in the case of inmates sentenced to
23 indeterminate terms, the secretary shall make a recommendation
24 to the Board of Parole Hearings with respect to the inmates who
25 have applied under this section. The board shall consider this
26 information and make an independent judgment pursuant to
27 paragraph (2) and make findings related thereto before rejecting
28 the request or making a recommendation to the court. This action
29 shall be taken at the next lawfully noticed board meeting.

30 (7) Any recommendation for recall submitted to the court by
31 the secretary or the Board of Parole Hearings shall include one or
32 more medical evaluations, a postrelease plan, and findings pursuant
33 to paragraph (2).

34 (8) If possible, the matter shall be heard before the same judge
35 of the court who sentenced the prisoner.

36 (9) If the court grants the recall and resentencing application,
37 the prisoner shall be released by the department within 48 hours
38 of receipt of the court's order, unless a longer time period is agreed
39 to by the inmate. At the time of release, the warden or the warden's
40 representative shall ensure that the prisoner has each of the

1 following in his or her possession: a discharge medical summary,
2 full medical records, state identification, parole medications, and
3 all property belonging to the prisoner. After discharge, any
4 additional records shall be sent to the prisoner's forwarding
5 address.

6 (10) The secretary shall issue a directive to medical and
7 correctional staff employed by the department that details the
8 guidelines and procedures for initiating a recall and resentencing
9 procedure. The directive shall clearly state that any prisoner who
10 is given a prognosis of six months or less to live is eligible for
11 recall and resentencing consideration, and that recall and
12 resentencing procedures shall be initiated upon that prognosis.

13 (f) Notwithstanding any other provision of this section, for
14 purposes of paragraph (3) of subdivision (h), any allegation that
15 a defendant is eligible for state prison due to a prior or current
16 conviction, sentence enhancement, or because he or she is required
17 to register as a sex offender shall not be subject to dismissal
18 pursuant to Section 1385.

19 (g) A sentence to state prison for a determinate term for which
20 only one term is specified, is a sentence to state prison under this
21 section.

22 (h) (1) Except as provided in paragraph (3), a felony punishable
23 pursuant to this subdivision where the term is not specified in the
24 underlying offense shall be punishable by a term of imprisonment
25 in a county jail for 16 months, or two or three years.

26 (2) Except as provided in paragraph (3), a felony punishable
27 pursuant to this subdivision shall be punishable by imprisonment
28 in a county jail for the term described in the underlying offense.

29 (3) Notwithstanding paragraphs (1) and (2), where the defendant
30 (A) has a prior or current felony conviction for a serious felony
31 described in subdivision (c) of Section 1192.7 or a prior or current
32 conviction for a violent felony described in subdivision (c) of
33 Section 667.5, (B) has a prior felony conviction in another
34 jurisdiction for an offense that has all the elements of a serious
35 felony described in subdivision (c) of Section 1192.7 or a violent
36 felony described in subdivision (c) of Section 667.5, (C) is required
37 to register as a sex offender pursuant to Chapter 5.5 (commencing
38 with Section 290) of Title 9 of Part 1, ~~or~~ (D) is convicted of a crime
39 and as part of the sentence an enhancement pursuant to Section
40 186.11 is imposed, *or (E) is convicted of a felony or felonies*

1 *punishable pursuant to this subdivision and is sentenced to an*
2 *aggregate term of more than three years, an executed sentence for*
3 *a felony punishable pursuant to this subdivision shall be served in*
4 *state prison.*

5 (4) Nothing in this subdivision shall be construed to prevent
6 other dispositions authorized by law, including pretrial diversion,
7 deferred entry of judgment, or an order granting probation pursuant
8 to Section 1203.1.

9 (5) The court, when imposing a sentence pursuant to paragraph
10 (1) or (2) of this subdivision, may commit the defendant to county
11 jail as follows:

12 (A) For a full term in custody as determined in accordance with
13 the applicable sentencing law.

14 (B) (i) For a term as determined in accordance with the
15 applicable sentencing law, but suspend execution of a concluding
16 portion of the term selected in the court’s discretion, during which
17 time the defendant shall be supervised by the county probation
18 officer in accordance with the terms, conditions, and procedures
19 generally applicable to persons placed on probation, for the
20 remaining unserved portion of the sentence imposed by the court.
21 The period of supervision shall be mandatory, and may not be
22 earlier terminated except by court order. Any proceeding to revoke
23 or modify mandatory supervision under this subparagraph shall
24 be conducted pursuant to either subdivisions (a) and (b) of Section
25 1203.2 or Section 1203.3. During the period when the defendant
26 is under such supervision, unless in actual custody related to the
27 sentence imposed by the court, the defendant shall be entitled to
28 only actual time credit against the term of imprisonment imposed
29 by the court. Any time period which is suspended because a person
30 has absconded shall not be credited toward the period of
31 supervision.

32 (ii) The portion of a defendant’s sentenced term during which
33 time he or she is supervised by the county probation officer
34 pursuant to this subparagraph shall be known as mandatory
35 supervision, and shall begin upon release from custody.

36 (6) The sentencing changes made by the act that added this
37 subdivision shall be applied prospectively to any person sentenced
38 on or after October 1, 2011.

39 (i) This section shall become operative on January 1, 2017.

40 SEC. 4. Section 3000.08 of the Penal Code is amended to read:

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

10 (1) A serious felony as described in subdivision (c) of Section
11 1192.7.

12 (2) A violent felony as described in subdivision (c) of Section
13 667.5.

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

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

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

22 *(b) A person released from state prison on or after January 1,*
23 *2015, after serving a prison term, or whose sentence has been*
24 *deemed served pursuant to Section 2900.5, to whom any of the*
25 *following apply, is subject to the jurisdiction of, and parole*
26 *supervision by, the Department of Corrections and Rehabilitation*
27 *and the jurisdiction of the court in the county in which the parolee*
28 *is released, resides, or in which an alleged violation of supervision*
29 *has occurred, for the purpose of hearing petitions to revoke parole*
30 *and impose a term of custody:*

31 *(1) The person has a prior conviction of a serious felony*
32 *described in subdivision (c) of Section 1192.7.*

33 *(2) The person has a prior conviction of a violent felony*
34 *described in subdivision (c) of Section 667.5.*

35 *(3) The person has a prior conviction for which the person was*
36 *sentenced pursuant to paragraph (2) of subdivision (e) of Section*
37 *667 or paragraph (2) of subdivision (c) of Section 1170.12.*

38 *(4) The person has a prior conviction of a crime for which the*
39 *person was classified as a high-risk sex offender.*

1 (5) *The person has a conviction of a crime for which the person*
2 *was required, as a condition of parole, to undergo treatment by*
3 *the State Department of State Hospitals pursuant to Section 2962.*

4 ~~(b)~~

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

8 ~~(e)~~

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

17 ~~(d)~~

18 (e) Upon review of the alleged violation and a finding of good
19 cause that the parolee has committed a violation of law or violated
20 his or her conditions of parole, the supervising parole agency may
21 impose additional and appropriate conditions of supervision,
22 including rehabilitation and treatment services and appropriate
23 incentives for compliance, and impose immediate, structured, and
24 intermediate sanctions for parole violations, including flash
25 incarceration in a city or a county jail. Periods of “flash
26 incarceration,” as defined in subdivision ~~(e)~~ (f) are encouraged as
27 one method of punishment for violations of a parolee’s conditions
28 of parole. This section does not preclude referrals to a reentry court
29 pursuant to Section 3015.

30 ~~(e)~~

31 (f) “Flash incarceration” is a period of detention in a city or a
32 county jail due to a violation of a parolee’s conditions of parole.
33 The length of the detention period can range between one and 10
34 consecutive days. Shorter, but if necessary more frequent, periods
35 of detention for violations of a parolee’s conditions of parole shall
36 appropriately punish a parolee while preventing the disruption in
37 a work or home establishment that typically arises from longer
38 periods of detention.

39 ~~(f)~~

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

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

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

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

28 ~~(g)~~

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

32 ~~(h)~~

33 (i) Notwithstanding any other law, if Section 3000.1 or
34 paragraph (4) of subdivision (b) of Section 3000 applies to a person
35 who is on parole and the court determines that the person has
36 committed a violation of law or violated his or her conditions of
37 parole, the person on parole shall be remanded to the custody of
38 the Department of Corrections and Rehabilitation and the
39 jurisdiction of the Board of Parole Hearings for the purpose of
40 future parole consideration.

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

8 (1) The person is required to register as a sex offender pursuant
 9 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part
 10 1, and was subject to a period of parole exceeding three years at
 11 the time he or she committed a felony for which they were
 12 convicted and subsequently sentenced to state prison.

13 (2) The person was subject to parole for life pursuant to Section
 14 3000.1 at the time of the commission of the offense that resulted
 15 in a conviction and state prison sentence.

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

23 ~~(k)~~
 24 (l) Except as described in subdivision ~~(e)~~ (d), any person who
 25 is convicted of a felony that requires community supervision and
 26 who still has a period of state parole to serve shall discharge from
 27 state parole at the time of release to community supervision.

28 ~~(l)~~
 29 (m) Any person released to parole supervision pursuant to
 30 subdivision (a) *or* (b) shall, regardless of any subsequent
 31 determination that the person should have been released pursuant
 32 to subdivision ~~(b)~~ (c), remain subject to subdivision (a) *or* (b) after
 33 having served 60 days under supervision pursuant to subdivision
 34 (a) *or* (b).

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

36 SEC. 5. Section 3451 of the Penal Code is amended to read:
 37 3451. (a) Notwithstanding any other law and except for persons
 38 serving a prison term for any crime described in subdivision (b),
 39 all persons released from prison on and after October 1, 2011, or,
 40 whose sentence has been deemed served pursuant to Section 2900.5

1 after serving a prison term for a felony shall, upon release from
2 prison and for a period not exceeding three years immediately
3 following release, be subject to community supervision provided
4 by a county agency designated by each county's board of
5 supervisors which is consistent with evidence-based practices,
6 including, but not limited to, supervision policies, procedures,
7 programs, and practices demonstrated by scientific research to
8 reduce recidivism among individuals under postrelease supervision.

9 (b) This section shall not apply to any person released from
10 prison after having served a prison term for any of the following:

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

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

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

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

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

23 (c) *This section shall not apply to any person released from*
24 *prison to whom any of the following apply:*

25 (1) *The person has a prior conviction of a serious felony*
26 *described in subdivision (c) of Section 1192.7.*

27 (2) *The person has a prior conviction of a violent felony*
28 *described in subdivision (c) of Section 667.5.*

29 (3) *The person has a prior conviction for which the person was*
30 *sentenced pursuant to paragraph (2) of subdivision (e) of Section*
31 *667 or paragraph (2) of subdivision (c) of Section 1170.12.*

32 (4) *The person has a prior conviction of a crime for which the*
33 *person was classified as a high-risk sex offender.*

34 (5) *The person has a conviction of a crime for which the person*
35 *was required, as a condition of parole, to undergo treatment by*
36 *the State Department of State Hospitals pursuant to Section 2962.*

37 (e)

38 (d) (1) Postrelease supervision under this title shall be
39 implemented by a county agency according to a postrelease strategy
40 designated by each county's board of supervisors.

1 (2) The Department of Corrections and Rehabilitation shall
2 inform every prisoner subject to the provisions of this title, upon
3 release from state prison, of the requirements of this title and of
4 his or her responsibility to report to the county agency responsible
5 for serving that inmate. The department shall also inform persons
6 serving a term of parole for a felony offense who are subject to
7 this section of the requirements of this title and of his or her
8 responsibility to report to the county agency responsible for serving
9 that parolee. Thirty days prior to the release of any person subject
10 to postrelease supervision by a county, the department shall notify
11 the county of all information that would otherwise be required for
12 parolees under subdivision (e) of Section 3003.

13 ~~(d)~~

14 (e) Any person released to postrelease community supervision
15 pursuant to subdivision (a) shall, regardless of any subsequent
16 determination that the person should have been released to parole
17 pursuant to Section 3000.08, remain subject to subdivision (a) after
18 having served 60 days under supervision pursuant to subdivision
19 (a).

20 SEC. 6. Section 3455 of the Penal Code is amended to read:

21 3455. (a) If the supervising county agency has determined,
22 following application of its assessment processes, that intermediate
23 sanctions as authorized in subdivision (b) of Section 3454 are not
24 appropriate, the supervising county agency shall petition the court
25 pursuant to Section 1203.2 to revoke, modify, or terminate
26 postrelease community supervision. At any point during the process
27 initiated pursuant to this section, a person may waive, in writing,
28 his or her right to counsel, admit the violation of his or her
29 postrelease community supervision, waive a court hearing, and
30 accept the proposed modification of his or her postrelease
31 community supervision. The petition shall include a written report
32 that contains additional information regarding the petition,
33 including the relevant terms and conditions of postrelease
34 community supervision, the circumstances of the alleged
35 underlying violation, the history and background of the violator,
36 and any recommendations. The Judicial Council shall adopt forms
37 and rules of court to establish uniform statewide procedures to
38 implement this subdivision, including the minimum contents of
39 supervision agency reports. Upon a finding that the person has
40 violated the conditions of postrelease community supervision, the

1 revocation hearing officer shall have authority to do all of the
2 following:

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

6 (2) Revoke and terminate postrelease community supervision
7 and order the person to confinement in the 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 (4) *If the person has been found to have violated the conditions*
11 *of postrelease community supervision on two prior occasions,*
12 *revoke and terminate postrelease community supervision and order*
13 *the person to confinement in the state prison for a period of one*
14 *year.*

15 (b) (1) At any time during the period of postrelease community
16 supervision, if any peace officer has probable cause to believe a
17 person subject to postrelease community supervision is violating
18 any term or condition of his or her release, the officer may, without
19 a warrant or other process, arrest the person and bring him or her
20 before the supervising county agency established by the county
21 board of supervisors pursuant to subdivision (a) of Section 3451.
22 Additionally, an officer employed by the supervising county agency
23 may seek a warrant and a court or its designated hearing officer
24 appointed pursuant to Section 71622.5 of the Government Code
25 shall have the authority to issue a warrant for that person's arrest.

26 (2) The court or its designated hearing officer shall have the
27 authority to issue a warrant for any person who is the subject of a
28 petition filed under this section who has failed to appear for a
29 hearing on the petition or for any reason in the interests of justice,
30 or to remand to custody a person who does appear at a hearing on
31 the petition for any reason in the interests of justice.

32 (c) The revocation hearing shall be held within a reasonable
33 time after the filing of the revocation petition. Based upon a
34 showing of a preponderance of the evidence that a person under
35 supervision poses an unreasonable risk to public safety, or the
36 person may not appear if released from custody, or for any reason
37 in the interests of justice, the supervising county agency shall have
38 the authority to make a determination whether the person should
39 remain in custody pending the first court appearance on a petition
40 to revoke postrelease community supervision, and upon that

1 determination, may order the person confined pending his or her
2 first court appearance.

3 (d) Confinement pursuant to paragraphs (1) and (2) of
4 subdivision (a) shall not exceed a period of 180 days in the county
5 jail for each custodial sanction.

6 (e) A person shall not remain under supervision or in custody
7 pursuant to this title on or after three years from the date of the
8 person's initial entry onto postrelease community supervision,
9 except when his or her supervision is tolled pursuant to Section
10 1203.2 or subdivision (b) of Section 3456.

O