

AMENDED IN ASSEMBLY MARCH 18, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2318

Introduced by Assembly Member Ian Calderon

February 21, 2014

An act to ~~add Section 3055 to amend Section 830.5 of the Penal Code, relating to parole.~~ *peace officers.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2318, as amended, Ian Calderon. ~~Parole.~~ *Peace officers: transportation detail.*

Existing law designates various persons as peace officers, including probation officers, parole officers, and parole agents, and provides that their authority extends to certain duties, including to the transportation of persons on parole, probation, mandatory supervision, or postrelease community supervision, and violations of law that are discovered while performing their duties. Existing law requires the Department of Corrections and Rehabilitation, Division of Juvenile Justice, to develop and implement a policy for arming peace officers of the division who comprise "high-risk transportation details." Existing law requires the Secretary of the Department of Corrections and Rehabilitation to make a determination regarding that term and to consider protection of the public, protection of officers, flight risk, and violence potential of the wards in making that determination. Existing law also defines "transportation detail" for purposes of these provisions to include transportation of wards outside the facility, including, but not limited to, court appearances, medical trips, and interfacility transfers.

This bill would revise the definition of “transportation detail” for purposes of these provisions to specifically include work detail. The bill would also make technical changes.

~~Existing law generally regulates the granting and conditioning of parole, and places the duty to monitor parolees on the Department of Corrections and Rehabilitation, Division of Adult Parole Operations. Under existing law, amended by Proposition 9, also known as Marsy’s Law, the Board of Parole Hearings is the state’s parole authority and authorizes the board to release a prisoner on a specified period of parole after the expiration of a term of imprisonment. Under existing law, the department is authorized to return a parolee to prison if the Board of Parole Hearings determines that the parolee violated the terms of his or her parole, as specified. Marsy’s Law may be amended by a bill passed by a ¾ vote of each house of the Legislature.~~

~~This bill would require the Department of Corrections and Rehabilitation to establish a program to allow elderly prisoners, who meet specified criteria, to apply for, and be released on parole.~~

~~Vote: ¾majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.~~

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

1 SECTION 1. Section 830.5 of the Penal Code is amended to
2 read:

3 830.5. The following persons are peace officers whose authority
4 extends to any place in the state while engaged in the performance
5 of the duties of their respective employment and for the purpose
6 of carrying out the primary function of their employment or as
7 required under Sections 8597, 8598, and 8617 of the Government
8 Code, as amended by Section 44 of Chapter 1124 of the Statutes
9 of 2002. Except as specified in this section, these peace officers
10 may carry firearms only if authorized and under those terms and
11 conditions specified by their employing agency:

12 (a) A parole officer of the Department of Corrections and
13 Rehabilitation, or the Department of Corrections and
14 Rehabilitation, Division of Juvenile Parole Operations, probation
15 officer, deputy probation officer, or a board coordinating parole
16 agent employed by the Juvenile Parole Board. Except as otherwise
17 provided in this subdivision, the authority of these parole or
18 probation officers shall extend only as follows:

1 (1) To conditions of parole, probation, mandatory supervision,
2 or postrelease community supervision by ~~any~~ a person in this state
3 on parole, probation, mandatory supervision, or postrelease
4 community supervision.

5 (2) To the escape of ~~any~~ an inmate or ward from a state or local
6 institution.

7 (3) To the transportation of persons on parole, probation,
8 mandatory supervision, or postrelease community supervision.

9 (4) To violations of any penal provisions of law ~~which~~ that are
10 discovered while performing the usual or authorized duties of his
11 or her employment.

12 (5) (A) To the rendering of mutual aid to any other law
13 enforcement agency.

14 (B) For the purposes of this subdivision, “parole agent” shall
15 have the same meaning as parole officer of the Department of
16 Corrections and Rehabilitation or of the Department of Corrections
17 and Rehabilitation, Division of Juvenile Justice.

18 (C) Any parole officer of the Department of Corrections and
19 Rehabilitation, or the Department of Corrections and
20 Rehabilitation, Division of Juvenile Parole Operations, is
21 authorized to carry firearms, but only as determined by the director
22 on a case-by-case or unit-by-unit basis and only under those terms
23 and conditions specified by the director or chairperson. The
24 Department of Corrections and Rehabilitation, Division of Juvenile
25 Justice, shall develop a policy for arming peace officers of the
26 Department of Corrections and Rehabilitation, Division of Juvenile
27 Justice, who comprise “high-risk transportation details” or
28 “high-risk escape details” no later than June 30, 1995. This policy
29 shall be implemented no later than December 31, 1995.

30 (D) The Department of Corrections and Rehabilitation, Division
31 of Juvenile Justice, shall train and arm those peace officers who
32 comprise tactical teams at each facility for use during “high-risk
33 escape details.”

34 (b) A correctional officer employed by the Department of
35 Corrections and Rehabilitation, or of the Department of Corrections
36 and Rehabilitation, Division of Juvenile Justice, having custody
37 of wards or ~~any~~ an employee of the Department of Corrections
38 and Rehabilitation designated by the secretary or ~~any~~ a correctional
39 counselor series employee of the Department of Corrections and
40 Rehabilitation or any medical technical assistant series employee

1 designated by the secretary or designated by the secretary and
2 employed by the State Department of ~~Mental Health~~ *State*
3 *Hospitals* or ~~any~~ *an* employee of the Board of Parole Hearings
4 designated by the secretary or employee of the Department of
5 Corrections and Rehabilitation, Division of Juvenile Justice,
6 designated by the secretary or ~~any~~ *a* superintendent, supervisor,
7 or employee having custodial responsibilities in an institution
8 operated by a probation department, or ~~any~~ *a* transportation officer
9 of a probation department.

10 (c) The following persons may carry a firearm while not on
11 duty: a parole officer of the Department of Corrections and
12 Rehabilitation, or the Department of Corrections and
13 Rehabilitation, Division of Juvenile Justice, a correctional officer
14 or correctional counselor employed by the Department of
15 Corrections and Rehabilitation, or an employee of the Department
16 of Corrections and Rehabilitation, Division of Juvenile Justice,
17 having custody of wards or ~~any~~ *an* employee of the Department
18 of Corrections and Rehabilitation designated by the secretary. A
19 parole officer of the Juvenile Parole Board may carry a firearm
20 while not on duty only when so authorized by the chairperson of
21 the board and only under the terms and conditions specified by
22 the chairperson. Nothing in this section shall be interpreted to
23 require licensure pursuant to Section 25400. The director or
24 chairperson may deny, suspend, or revoke for good cause a
25 person's right to carry a firearm under this subdivision. That person
26 shall, upon request, receive a hearing, as provided for in the
27 negotiated grievance procedure between the exclusive employee
28 representative and the Department of Corrections and
29 Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole
30 Board, to review the director's or the chairperson's decision.

31 (d) Persons permitted to carry ~~firearms~~ *a firearm* pursuant to
32 this section, either on or off duty, shall meet the training
33 requirements of Section 832 and shall qualify with the firearm at
34 least quarterly. It is the responsibility of the individual officer or
35 designee to maintain his or her eligibility to carry concealable
36 firearms off duty. Failure to maintain quarterly qualifications by
37 an officer or designee with any concealable firearms carried off
38 duty shall constitute good cause to suspend or revoke that person's
39 right to carry firearms off duty.

1 (e) The Department of Corrections and Rehabilitation shall
2 allow reasonable access to its ranges for officers and designees of
3 either department to qualify to carry concealable firearms off duty.
4 The time spent on the range for purposes of meeting the
5 qualification requirements shall be the person's own time during
6 the person's off-duty hours.

7 (f) The secretary shall promulgate regulations consistent with
8 this section.

9 (g) "High-risk transportation details" and "high-risk escape
10 details" as used in this section shall be determined by the ~~secretary,~~
11 *secretary* or his or her designee. The ~~secretary,~~ *secretary* or his or
12 her ~~designee,~~ *designee* shall consider at least the following in
13 determining "high-risk transportation details" and "high-risk escape
14 details": protection of the public, protection of officers, flight risk,
15 and violence potential of the wards.

16 (h) "Transportation detail" as used in this section shall include
17 transportation of wards outside the facility, including, but not
18 limited to, court appearances, medical trips, *work detail*, and
19 interfacility transfers.

20 (i) ~~This section is operative January 1, 2012.~~

21 ~~SECTION 1. Section 3055 is added to the Penal Code, to read:~~
22 ~~3055. (a) The Legislature finds and declares the following:~~

23 ~~(1) The number of elderly prisoners in California is increasing~~
24 ~~exponentially. According to the Department of Corrections and~~
25 ~~Rehabilitation, as of June 30, 2012, the population of prisoners 55~~
26 ~~years of age and older was almost 7,500, and that number is~~
27 ~~projected to rise to at least 8,500 by 2014.~~

28 ~~(2) Due to the high costs associated with geriatric medical needs,~~
29 ~~elderly prisoners cost an average of two to three times more to~~
30 ~~incarcerate than the general prison population. California spends~~
31 ~~between \$98,000 and \$138,000 per year to house each individual~~
32 ~~over 55 years of age.~~

33 ~~(3) There is a significantly lower risk of recidivism among~~
34 ~~elderly prisoners according to Department of Corrections and~~
35 ~~Rehabilitation statistics. The department's 2012 outcome report~~
36 ~~shows an 11.6 percent drop in recidivism between those in the 50~~
37 ~~to 54, inclusive, age bracket and those in the 60 and over age~~
38 ~~bracket, and reports that only 36.2 percent of people 60 years of~~
39 ~~age and older, who were released for the first time, returned to~~
40 ~~prison.~~

- 1 ~~(b) The Department of Corrections and Rehabilitation shall~~
- 2 ~~establish a program to allow elderly prisoners, who meet the criteria~~
- 3 ~~set forth in subdivision (c), to apply for, and be released on, parole.~~
- 4 ~~(e) To be eligible for parole pursuant to subdivision (b), a~~
- 5 ~~prisoner shall meet all of the following criteria:~~
- 6 ~~(1) Be 55 years of age or older.~~
- 7 ~~(2) Have served at least 50 percent of his or her sentence.~~
- 8 ~~(3) Have no serious disciplinary infraction in the last two years.~~
- 9 ~~(4) Have a reentry plan identifying residential, financial, and~~
- 10 ~~social integration plans.~~