

AMENDED IN SENATE MARCH 21, 2013

SENATE BILL

No. 287

**Introduced by Senator Walters
(Coauthor: Senator Galgiani)**

February 14, 2013

An act to amend ~~Section~~ *Sections 3000.08 and 3451* of the Penal Code, relating to ~~prisoners~~ *parole*.

LEGISLATIVE COUNSEL'S DIGEST

SB 287, as amended, Walters. Prison: community supervision: eligibility.

Existing law requires that all persons released from prison on and after October 1, 2011, 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 Three 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 or resides.

This bill would require any person who has been released after serving a term for an offense for which the person is required to register as a sex offender to be subject to parole supervision by the Department of Corrections and Rehabilitation. The bill would also require any person who has a prior conviction for a serious or violent felony, or a

prior conviction for an offense for which the person is required to register as a sex offender, to be subject to parole supervision by the department and the jurisdiction of the court in the county in which the parolee is released or resides.

~~Existing law, the Postrelease Community Supervision Act of 2011, requires, with exceptions, that all persons released from prison on and after October 1, 2011, shall be subject to postrelease community supervision for a period not exceeding 3 years. Existing law provides that this provision does not apply to a person released from prison after having served a prison term for a serious or violent felony, a 3rd strike violation, a crime where the person was classified as a High Risk Sex Offender, or any crime where the person is required to undergo treatment by the State Department of Mental Health as a condition of parole. Under existing law, these inmates are released to the parole supervision of the Department of Corrections and Rehabilitation.~~

~~This bill would additionally make the provisions for community supervision inapplicable to any person released from prison who has a prior conviction for a serious or violent felony, a crime for which the person received a 3rd strike, or a crime that resulted in the person being classified as a High Risk Sex Offender.~~

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. Section 3000.08 of the Penal Code, as amended
2 by Section 35 of Chapter 43 of the Statutes of 2012, is amended
3 to read:
4 3000.08. (a) ~~Persons~~A person released from state prison prior
5 to, or on or after, July 1, 2013, after serving a prison term, or;
6 whose sentence has been deemed served pursuant to Section
7 2900.5, for any of the following crimes ~~shall be~~, is subject to parole
8 supervision by the Department of Corrections and Rehabilitation
9 and the jurisdiction of the court in the county ~~where~~ *in which* the
10 parolee is released or resides for the purpose of hearing petitions
11 to revoke parole and impose a term of custody:
12 (1) A serious felony as described in subdivision (c) of Section
13 1192.7.
14 (2) A violent felony as described in subdivision (c) of Section
15 667.5.

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

4 (4) Any crime ~~where for which~~ the person ~~eligible for release~~
5 ~~from prison is classified as a High Risk Sex Offender~~ *is required*
6 *to register as a sex offender pursuant to Chapter 5.5 (commencing*
7 *with Section 290) of Title 9 of Part 1.*

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

12 (b) *A person released from state prison on or after January 1,*
13 *2014, after serving a prison term, or whose sentence has been*
14 *deemed served pursuant to Section 2900.5, who has a prior*
15 *conviction for any of the following, is subject to the jurisdiction*
16 *of, and parole supervision by, the Department of Corrections and*
17 *Rehabilitation and the jurisdiction of the court in the county in*
18 *which the parolee is released or resides for the purpose of hearing*
19 *petitions to revoke parole and impose a term of custody:*

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

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

23 (3) *A crime for which the person is required to register as a sex*
24 *offender pursuant to Chapter 5.5 (commencing with Section 290)*
25 *of Title 9 of Part 1.*

26 ~~(b)~~

27 (c) ~~Notwithstanding any other provision of law,~~ all other
28 offenders released from prison shall be placed on postrelease
29 supervision pursuant to Title 2.05 (commencing with Section
30 3450).

31 ~~(e)~~

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

40 ~~(d)~~

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

13 (e)

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

21 (f)

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

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

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

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

8 ~~(g)~~

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

12 ~~(h)~~

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

21 ~~(i)~~

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

28 (1) The person is required to register as a sex offender pursuant
29 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part
30 1, and was subject to a period of parole exceeding three years at
31 the time he or she committed a felony for which they were
32 convicted and subsequently sentenced to state prison.

33 (2) The person was subject to parole for life pursuant to Section
34 3000.1 at the time of the commission of the offense that resulted
35 in a conviction and state prison sentence.

36 ~~(j)~~

37 (k) Parolees subject to this section who have a pending
38 adjudication for a parole violation on July 1, 2013, ~~shall be~~ *are*
39 subject to the jurisdiction of the Board of Parole Hearings. Parole
40 revocation proceedings conducted by the Board of Parole Hearings

1 prior to July 1, 2013, if reopened on or after July 1, 2013, ~~shall be~~
 2 *are* subject to the jurisdiction of the Board of Parole Hearings.

3 ~~(k)~~

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

8 ~~(t)~~

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

10 ~~SECTION 4.~~

11 *SEC. 2.* Section 3451 of the Penal Code is amended to read:

12 3451. (a) Notwithstanding any other law and except for persons
 13 serving a prison term for any crime described in subdivision (b)
 14 and persons who have had a prior conviction described in
 15 subdivision (c), all persons released from prison on and after
 16 October 1, 2011, or, whose sentence has been deemed served
 17 pursuant to Section 2900.5 after serving a prison term for a felony
 18 shall, upon release from prison and for a period not exceeding
 19 three years immediately following release, be subject to community
 20 supervision provided by a county agency designated by each
 21 county’s board of supervisors which is consistent with
 22 evidence-based practices, including, but not limited to, supervision
 23 policies, procedures, programs, and practices demonstrated by
 24 scientific research to reduce recidivism among individuals under
 25 postrelease supervision.

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

28 (1) A serious felony described in subdivision (c) of Section
 29 1192.7.

30 (2) A violent felony described in subdivision (c) of Section
 31 667.5.

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

35 (4) Any crime ~~where for which the person eligible for release~~
 36 ~~from prison is classified as a High Risk Sex Offender.~~ *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.*

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

4 (c) This section shall not apply to any person released from
5 prison who has a prior conviction for any of the following:

6 (1) A serious felony described in subdivision (c) of Section
7 1192.7.

8 (2) A violent felony described in subdivision (c) of Section
9 667.5.

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

13 (4) Any crime ~~that resulted in the person's classification as a~~
14 ~~High Risk Sex Offender.~~ *for which the person is required to*
15 *register as a sex offender pursuant to Chapter 5.5 (commencing*
16 *with Section 290) of Title 9 of Part 1.*

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

20 (2) The Department of Corrections and Rehabilitation shall
21 inform every prisoner subject to the provisions of this title, upon
22 release from state prison, of the requirements of this title and of
23 his or her responsibility to report to the county agency responsible
24 for serving that inmate. The department shall also inform persons
25 serving a term of parole for a felony offense who are subject to
26 this section of the requirements of this title and of his or her
27 responsibility to report to the county agency responsible for serving
28 that parolee. Thirty days prior to the release of any person subject
29 to postrelease supervision by a county, the department shall notify
30 the county of all information that would otherwise be required for
31 parolees under subdivision (e) of Section 3003.