

Senate Bill No. 875

Passed the Senate August 29, 2014

Secretary of the Senate

Passed the Assembly August 29, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 3042 and 3043 of the Penal Code, and to amend Section 51 of Chapter 26 of the Statutes of 2014, relating to public safety, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 875, Committee on Budget and Fiscal Review. Public safety.

Existing law requires the Board of Parole Hearings, upon request, to notify the victim, or next of kin of the victim, of any crime committed by a prisoner, of any hearing to review or consider the parole suitability or the setting of a parole date for that prisoner. Existing law requires that this notice be given by telephone, certified mail, or electronic mail, using the method of communication selected by the requesting party, if that method is available. Existing law also requires the board to send, by certified mail, written notice of the parole hearing to the judge of the superior court before whom a prisoner was tried.

This bill would instead require the board to send the notice to the judge of the superior court, and would authorize the board to send the notice to the victim or the victim's next of kin, using United States mail.

Existing law establishes the Board of State and Community Corrections to collect and maintain available information and data about state and community correctional policies, practices, capacities, and needs, as specified. Existing law also requires the board to develop incentives for units of local government to develop comprehensive regional partnerships whereby adjacent jurisdictions pool grant funds in order to deliver services to a broader target population and maximize the impact of state funds at the local level.

This bill would appropriate \$5,000,000 from the Recidivism Reduction Fund to the Board of State and Community Corrections for the establishment of a social innovation financing program for counties.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 3042 of the Penal Code is amended to read:

3042. (a) At least 30 days before the Board of Prison Terms meets to review or consider the parole suitability or the setting of a parole date for any prisoner sentenced to a life sentence, the board shall send written notice thereof to each of the following persons: the judge of the superior court before whom the prisoner was tried and convicted, the attorney who represented the defendant at trial, the district attorney of the county in which the offense was committed, the law enforcement agency that investigated the case, and where the prisoner was convicted of the murder of a peace officer, the law enforcement agency which had employed that peace officer at the time of the murder.

(b) The Board of Prison Terms shall record all those hearings and transcribe recordings of those hearings within 30 days of any hearing. Those transcripts, including the transcripts of all prior hearings, shall be filed and maintained in the office of the Board of Prison Terms and shall be made available to the public no later than 30 days from the date of the hearing. No prisoner shall actually be released on parole prior to 60 days from the date of the hearing.

(c) At any hearing, the presiding hearing officer shall state his or her findings and supporting reasons on the record.

(d) Any statements, recommendations, or other materials considered shall be incorporated into the transcript of the hearing, unless the material is confidential in order to preserve institutional security and the security of others who might be endangered by disclosure.

(e) This section shall not apply to any hearing held to consider advancing a prisoner's parole date due to his or her conduct since his or her last hearing.

(f) (1) The written notice to the judge of the superior court before whom the prisoner was tried and convicted shall be sent by United States mail.

(2) The judge receiving this written notice may forward to the parole board any unprivileged information from the trial or sentencing proceeding regarding the prisoner, witnesses, or victims,

or other relevant persons, or any other information, that is pertinent to the question of whether the parole board should grant parole or under what conditions parole should be granted. The judge may also, in his or her discretion, include information given to him or her by victims, witnesses, or other persons that bear on the question of the prisoner's suitability for parole.

(3) The parole board shall review and consider all information received from the judge or any other person and shall consider adjusting the terms or conditions of parole to reflect the comments or concerns raised by this information, as appropriate.

(g) Nothing in this section shall be construed as limiting the type or content of information the judge or any other person may forward to the parole board for consideration under any other provision of law.

(h) Any person who receives notice under subdivision (a) who is authorized to forward information for consideration in a parole suitability hearing or the setting of a parole date for a person sentenced to a life sentence under this section, may forward that information either by facsimile or electronic mail. The Department of Corrections shall establish procedures for receiving the information by facsimile or electronic mail pursuant to this subdivision.

SEC. 2. Section 3043 of the Penal Code is amended to read:

3043. (a) (1) Upon request to the Department of Corrections and Rehabilitation and verification of the identity of the requester, notice of any hearing to review or consider the parole suitability or the setting of a parole date for any prisoner in a state prison shall be given by telephone, certified mail, regular mail, or electronic mail, using the method of communication selected by the requesting party, if that method is available, by the Board of Parole Hearings at least 90 days before the hearing to any victim of any crime committed by the prisoner, or to the next of kin of the victim if the victim has died, to include the commitment crimes, determinate term commitment crimes for which the prisoner has been paroled, and any other felony crimes or crimes against the person for which the prisoner has been convicted. The requesting party shall keep the board apprised of his or her current contact information in order to receive the notice.

(2) No later than 30 days prior to the date selected for the hearing, any person, other than the victim, entitled to attend the

hearing shall inform the board of his or her intention to attend the hearing and the name and identifying information of any other person entitled to attend the hearing who will accompany him or her.

(3) No later than 14 days prior to the date selected for the hearing, the board shall notify every person entitled to attend the hearing confirming the date, time, and place of the hearing.

(b) (1) The victim, next of kin, members of the victim's family, and two representatives designated as provided in paragraph (2) of this subdivision have the right to appear, personally or by counsel, at the hearing and to adequately and reasonably express his, her, or their views concerning the prisoner and the case, including, but not limited to the commitment crimes, determinate term commitment crimes for which the prisoner has been paroled, any other felony crimes or crimes against the person for which the prisoner has been convicted, the effect of the enumerated crimes on the victim and the family of the victim, the person responsible for these enumerated crimes, and the suitability of the prisoner for parole.

(2) Any statement provided by a representative designated by the victim or next of kin may cover any subject about which the victim or next of kin has the right to be heard including any recommendation regarding the granting of parole. The representatives shall be designated by the victim or, in the event that the victim is deceased or incapacitated, by the next of kin. They shall be designated in writing for the particular hearing prior to the hearing.

(c) A representative designated by the victim or the victim's next of kin for purposes of this section may be any adult person selected by the victim or the family of the victim. The board shall permit a representative designated by the victim or the victim's next of kin to attend a particular hearing, to provide testimony at a hearing, and to submit a statement to be included in the hearing as provided in Section 3043.2, even though the victim, next of kin, or a member of the victim's immediate family is present at the hearing, and even though the victim, next of kin, or a member of the victim's immediate family has submitted a statement as described in Section 3043.2.

(d) The board, in deciding whether to release the person on parole, shall consider the entire and uninterrupted statements of

the victim or victims, next of kin, immediate family members of the victim, and the designated representatives of the victim or next of kin, if applicable, made pursuant to this section and shall include in its report a statement whether the person would pose a threat to public safety if released on parole.

(e) In those cases where there are more than two immediate family members of the victim who wish to attend any hearing covered in this section, the board shall allow attendance of additional immediate family members to include the following: spouse, children, parents, siblings, grandchildren, and grandparents.

SEC. 3. Section 51 of Chapter 26 of the Statutes of 2014 is amended to read:

Sec. 51. Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until January 1, 2016, the department may implement and administer Sections 45 to 50, inclusive, of this act by all-county letters or similar instructions. The all-county letters or similar instructions shall be developed in consultation with the Chief Probation Officers of California, the County Welfare Directors Association of California, and client advocates. The department shall adopt regulations implementing Sections 45 to 50, inclusive, of this act by January 1, 2016.

SEC. 4. The sum of five million dollars (\$5,000,000) is hereby appropriated, in the 2014–15 fiscal year, from the Recidivism Reduction Fund to the Board of State and Community Corrections for the establishment of a social innovation financing program for counties. The Board of State and Community Corrections may use up to 5 percent of the total amount appropriated to administer this program.

SEC. 5. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

Approved _____, 2014

Governor