

AMENDED IN SENATE MARCH 18, 2014

SENATE BILL

No. 892

Introduced by Senator Hancock

(Coauthors: Assembly Members Ammiano and Skinner)

January 13, 2014

~~An act relating to state prisons.~~ *An act to amend Section 12838.1 of the Government Code, and to amend Sections 2932 and 2933.6 of, and to add Article 7 (commencing with Section 2696) to Chapter 4 of Title 1 of Part 3 of, the Penal Code, relating to state prisons.*

LEGISLATIVE COUNSEL'S DIGEST

SB 892, as amended, Hancock. State prisons.

Existing law establishes the Department of Corrections and Rehabilitation to oversee the state prison system. Existing law authorizes the Governor to appoint 4 officers, subject to Senate approval, to the Division of Adult Institutions within the Department of Corrections and Rehabilitation, to oversee specified categories of adult institutions.

This bill would authorize an additional officer appointment by the Governor, to oversee the security threat group validation and Security Housing Unit operations and conditions within that division.

Existing law authorizes Security Housing Units for segregation of certain prisoners for disciplinary or security purposes, and because of gang membership or association.

This bill would require specified due process procedures for determining if an inmate is a member of or an associate of a gang, and subject to placement in a Security Housing Unit. The bill would require the Office of the Inspector General, commencing July 1, 2015, to review every determination completed on or after July 1, 2015, prior to the offender being placed in a Security Housing Unit, and in which

confidential information was used, that an inmate is a gang member or associate, to determine whether the minimum level of due process was provided and that the determination was supported by the evidence. If the Inspector General concludes that the determination was not supported by the evidence, or that the inmate was not provided the minimum level of due process, the gang member or associate classification would be deleted and the inmate would not be placed in a Security Housing Unit.

The bill would require an inmate subject to an indeterminate Security Housing Unit term to be placed in a multistep program designed to promote positive behavior and cessation of gang-related activities, and promotion of successful assimilation of the inmate back into the general prison population. The bill would require the Inspector General, on or before July 1, 2016, to review the central files of each inmate who is subject to an indeterminate Security Housing Unit term who is denied progression within the program to assess the department's compliance with the program.

The bill would require an inmate subject to a determinate Security Housing Unit term to receive an individualized plan to address the conduct giving rise to the term in the Security Housing Unit, and to promote successful assimilation back into the general prison population. The bill would authorize an inmate serving a determinate Security Housing Unit term to earn credits toward reducing that term.

The bill would require the Inspector General, commencing July 1, 2016, and annually thereafter, to provide an audit report to the Governor and the Legislature of inmates subject to a determinate term in a Security Housing Unit to assess compliance by the department.

The bill would require an inmate in a Security Housing Unit or Psychiatric Services Unit to have access to educational programming, to have daily face-to-face interaction with uniformed and civilian staff, to have access to radio or television, and the opportunity to earn additional specified privileges and credits towards reduction of the inmate's sentence. The bill would require the Inspector General, on or before July 1, 2016, and biennially thereafter, to perform an audit to assess the department's compliance with these provisions.

The bill would require mental health screening for an inmate placed in the Security Housing Unit and subsequent mental health assessments. The bill would require the Inspector General to employ 2 offender resource specialists at each Security Housing Unit and Psychiatric Services Unit, to be responsible for, among other things, assisting an

inmate with concerns about the inmate’s responsibilities and rights during confinement in one of those units, and responding to an inmate’s family member’s inquiries.

The bill would require the department, commencing July 1, 2015, to collect specified data regarding inmates subject to a term in a Security Housing Unit. The bill would require the Inspector General, commencing January 1, 2017, and biennially thereafter, to use the data to prepare reports for the Legislature on specified criteria pertaining to inmates in a Security Housing Unit and a Psychiatric Services Unit.

Existing law provides that an inmate placed in a Security Housing Unit for specified crimes or because of gang association or membership, or placed in a Psychiatric Services Unit, is ineligible to earn credits towards reducing his or her sentence during the time the inmate is in the Security Housing Unit.

This bill would provide that those inmates would be eligible to earn credits toward reducing their sentences while in a Security Housing Unit or Psychiatric Services Unit for a period during which the inmate has been free of disciplinary action for 6 consecutive months.

The bill would state findings and declarations by the Legislature relative to Security Housing Units and would make conforming changes.

~~Existing law establishes the Department of Corrections and Rehabilitation to oversee the state prison system.~~

~~This bill would declare that it is the intent of the Legislature to enact legislation to address or modify the use of segregated housing units in the state prison system.~~

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

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

- 1 SECTION 1. *The Legislature finds and declares the following:*
- 2 (a) *Prisons serve a vital role in California’s public safety and*
- 3 *criminal justice system. The prison system also is an increasingly*
- 4 *expensive government program.*
- 5 (b) *The mission of the Department of Corrections and*
- 6 *Rehabilitation is to enhance public safety through safe and secure*
- 7 *incarceration of the most serious and violent offenders, and to*
- 8 *provide effective parole supervision and rehabilitative strategies*
- 9 *for the successful reintegration of offenders into our communities.*

1 (c) *The criminal justice system must be transparent and include*
2 *performance measures that hold it accountable for its results in*
3 *protecting the public, reducing reoffending, and conserving*
4 *taxpayers' money.*

5 (d) *Currently, California places an offender in a setting isolated*
6 *from the general prison population solely because the offender is*
7 *a gang member. An offender is labeled a gang member or gang*
8 *associate through a process that is completely internal within the*
9 *department and that is not subject to any systematic independent*
10 *oversight.*

11 (e) *An offender in the Security Housing Unit is locked in a cell*
12 *for up to 23 hours a day. These offenders are typically given*
13 *minimal outdoor time alone in small, separately secured yards,*
14 *and eat their meals in their cells. An offender in a Security Housing*
15 *Unit cannot make phone calls and has very limited access to family*
16 *member visits.*

17 (f) *As of February 27, 2014, there were 2,483 offenders serving*
18 *indeterminate terms in the Security Housing Unit and 1,466*
19 *offenders serving determinate terms in the Security Housing Unit*
20 *in California state prisons.*

21 (g) *As of February 27, 2014, there were 39 offenders who had*
22 *been in the Security Housing Unit for more than 25 years, and 46*
23 *offenders who had been in the Security Housing Unit for more*
24 *than 20 years. According to the department, the average time an*
25 *offender spends in the Security Housing Unit is 6.8 years.*

26 (h) *Mental health professionals and researchers have found*
27 *that offenders in solitary confinement, especially for an extended*
28 *time, suffer from a number of psychological and psychiatric*
29 *illnesses. Those illnesses include aggression, chronic insomnia,*
30 *anxiety, panic attacks, extreme paranoia, and an offender often*
31 *exhibits the signs and symptoms of psychosis, including*
32 *hallucinations.*

33 (i) *Between September 2012 and September 2013, 273 offenders*
34 *were paroled directly into our communities from the Security*
35 *Housing Unit.*

36 (j) *Long-term segregated housing as a prison management*
37 *strategy should be used only as a last resort and should be limited*
38 *in duration. The conditions of confinement should include*
39 *evidence-based programs designed to return the offender to the*
40 *general prison population.*

1 *SEC. 2. Section 12838.1 of the Government Code is amended*
2 *to read:*

3 12838.1. (a) There is hereby created within the Department
4 of Corrections and Rehabilitation, under the Undersecretary for
5 Administration and Offender Services, the following divisions:

6 (1) The Division of Enterprise Information Services, the
7 Division of Facility Planning, Construction, and Management, and
8 the Division of Administrative Services. Each division shall be
9 headed by a director, who shall be appointed by the Governor,
10 upon recommendation of the secretary, subject to Senate
11 confirmation, who shall serve at the pleasure of the Governor.

12 (2) The Division of Internal Oversight and Research. This
13 division shall be headed by a director, who shall be appointed by
14 the Governor, upon recommendation of the secretary, who shall
15 serve at the pleasure of the Governor.

16 (b) There is hereby created in the Department of Corrections
17 and Rehabilitation, under the Undersecretary for Health Care
18 Services, the Division of Health Care Operations and the Division
19 of Health Care Policy and Administration. Each division shall be
20 headed by a director, who shall be appointed by the Governor,
21 upon recommendation of the secretary, subject to Senate
22 confirmation, who shall serve at the pleasure of the Governor.

23 (c) There is hereby created within the Department of Corrections
24 and Rehabilitation, under the Undersecretary for Operations, the
25 Division of Adult Institutions, the Division of Adult Parole
26 Operations, the Division of Juvenile Justice, and the Division of
27 Rehabilitative Programs. Each division shall be headed by a
28 director, who shall be appointed by the Governor, upon
29 recommendation of the secretary, subject to Senate confirmation,
30 who shall serve at the pleasure of the Governor.

31 (d) The Governor shall, upon recommendation of the secretary,
32 appoint ~~four~~ *five* subordinate officers to the Division of Adult
33 Institutions, subject to Senate confirmation, who shall serve at the
34 pleasure of the Governor. Each subordinate officer appointed
35 pursuant to this subdivision shall oversee an identified category
36 of adult institutions, one of which shall be female offender
37 ~~facilities~~ *facilities, and one that shall oversee security threat group*
38 *validation and Security Housing Unit operations and conditions,*
39 *as described in Article 7 (commencing with Section 2696) of*
40 *Chapter 4 of Title 1 of Part 3 of the Penal Code.*

1 (e) (1) Unless the context clearly requires otherwise, whenever
 2 the term “Chief Deputy Secretary for Adult Operations” appears
 3 in any statute, regulation, or contract, it shall be construed to refer
 4 to the Director of the Division of Adult Institutions.

5 (2) Unless the context clearly requires otherwise, whenever the
 6 term “Chief Deputy Secretary for Adult Programs” appears in any
 7 statute, regulation, or contract, it shall be construed to refer to the
 8 Director of the Division of Rehabilitative Programs.

9 (3) Unless the context clearly requires otherwise, whenever the
 10 term “Chief Deputy Secretary for Juvenile Justice” appears in any
 11 statute, regulation, or contract, it shall be construed to refer to the
 12 Director of the Division of Juvenile Justice.

13 *SEC. 3. Article 7 (commencing with Section 2696) is added to*
 14 *Chapter 4 of Title 1 of Part 3 of the Penal Code, to read:*

15
 16 *Article 7. The Security Housing Unit*

17
 18 *2696. The terms below, as used in this article, are defined as*
 19 *follows:*

20 (a) “Custody” means the offender is in the physical custody of
 21 the Department of Corrections and Rehabilitation.

22 (b) “Determinate Security Housing Unit term” means the
 23 offender is placed in the Security Housing Unit for a determinate
 24 period of time because the offender was found guilty of a serious
 25 offense, as described in the department’s regulations.

26 (c) “Indeterminate Security Housing Unit term” means that an
 27 offender is assigned to the Security Housing Unit for an
 28 indeterminate period. These offenders include security threat group
 29 affiliates and offenders in protective custody.

30 (d) “Psychiatric Services Unit” means a facility designed and
 31 staffed to treat mentally disordered offenders who are serving
 32 terms in the Security Housing Unit.

33 (e) “Security Housing Unit” means housing for an offender
 34 who is a difficult management case, a security threat group
 35 member, or a maximum security offender. There are four Security
 36 Housing Units in the state prison system located in Pelican Bay
 37 State Prison, California State Prison, Corcoran, California
 38 Institution for Women, and California Correctional Institution.

39 (f) “Security threat group,” which is used synonymously with
 40 the term “gang,” means any ongoing formal or informal

1 organization, association, or group of three or more persons that
2 has a common name or identifying sign or symbol whose members
3 and associates, individually or collectively, engage or have
4 engaged on behalf of that organization, association, or group, in
5 two or more acts that include planning, organizing, threatening,
6 financing, soliciting, or committing unlawful acts or misconduct.

7 (g) “Security threat group affiliate” means an offender who
8 has been validated as either a member or associate of a security
9 threat group.

10 (h) “Security threat group validation” means the process used
11 by the department to identify and document an offender affiliated
12 with a security threat group.

13 2696.5. (a) The department shall provide an offender due
14 process prior to validating an offender in its custody as a security
15 threat group affiliate. An offender shall be afforded, at a minimum,
16 the following procedural protections:

17 (1) Timely, written, and effective notice that security threat
18 group validation is being considered, and the facts upon which
19 that consideration is based.

20 (2) Decisionmaking by a dedicated and specially trained
21 classification committee.

22 (3) A hearing at which the offender may be heard in person
23 and, absent an individualized determination of good cause, has a
24 reasonable opportunity to present available witnesses and
25 information.

26 (4) An interpreter, if necessary, for the offender to understand
27 or participate in the proceedings.

28 (5) An advocate to assist with the offender’s investigation.

29 (6) An independent determination by the committee of the
30 reliability and credibility of confidential informants.

31 (7) A written statement in plain language setting forth the
32 specific evidence relied upon, and the reasons for, validation.

33 (b) Commencing July 1, 2015, the Office of the Inspector
34 General shall, prior to placement of an offender in a Security
35 Housing Unit, review every security threat group validation
36 completed on or after July 1, 2015, in which confidential
37 information was used, to determine whether the minimum level of
38 due process was provided to the validated offender and that the
39 validation was supported by the evidence. If the Office of Inspector
40 General concludes that the security threat group validation was

1 *not supported by the evidence or that the offender was not provided*
2 *the minimum level of due process, the offender's gang validation*
3 *shall be deleted and the offender shall not be placed in the Security*
4 *Housing Unit.*

5 2697. (a) *Commencing on January 1, 2015, an offender who*
6 *is serving an indeterminate Security Housing Unit term, and*
7 *thereafter, an offender placed in the Security Housing Unit, shall*
8 *be placed in the Step Down Program. The Step Down Program is*
9 *a multistep program designed to provide programming with the*
10 *ultimate goal of returning the offender to the general prison*
11 *population.*

12 (b) *Within 30 days of an offender being placed into the Step*
13 *Down Program, the department shall develop an individualized*
14 *plan for the offender. The plan shall include, but not be limited to,*
15 *an assessment of the offender's needs, an individualized strategy*
16 *to provide the offender with programming to address those needs,*
17 *and a statement of the expectations for the offender to progress*
18 *through the Step Down Program. The department shall provide*
19 *the plan to the offender and explain it so that the offender can*
20 *understand his or her responsibilities under the plan. A copy of*
21 *the plan shall be placed in the offender's central file.*

22 (c) *An offender in the Step Down Program shall be provided*
23 *with promising or evidence-based programming designed to*
24 *eliminate participation in security threat group-related activities.*
25 *The programming shall include incentives to promote positive*
26 *behavior. The programming shall also promote the successful*
27 *assimilation of an offender back into the general prison population.*
28 *Information obtained from the offender during this programming*
29 *shall not be used in a Rules Violation Report against the offender*
30 *or to keep the offender in the Security Housing Unit.*

31 (d) *The department shall track the offender's progress in*
32 *meeting the requirements of the plan described in subdivision (b).*

33 (e) *An offender in the Step Down Program shall be assessed by*
34 *a correctional counselor every 90 days, in order to monitor the*
35 *offender's progress. The correctional counselor and the offender*
36 *resource specialist shall meet with the offender and provide the*
37 *offender with a progress report that outlines what requirements*
38 *the offender is not meeting and what the offender is expected to*
39 *do to progress within the Step Down Program. An interpreter shall*
40 *be provided, if necessary, so that the offender can understand and*

1 *participate in the assessment. A copy of the report shall be placed*
2 *in offender's central file.*

3 *(f) An offender shall have the opportunity to advance to the next*
4 *step of the Step Down Program after successful participation in*
5 *the current step for 180 days.*

6 *(g) The department shall prepare a comprehensive reentry plan*
7 *for every offender who will parole directly out of the Security*
8 *Housing Unit or the Psychiatric Services Unit into the community.*

9 *(h) On or before July 1, 2016, the Office of the Inspector*
10 *General shall review the central file of each offender who is denied*
11 *progress within the Step Down Program to assess the department's*
12 *compliance with this section.*

13 *2697.5. (a) The department shall develop an individualized*
14 *plan for the offender within 30 days of an offender beginning a*
15 *determinate Security Housing Unit term. The plan shall include*
16 *an assessment of the offender's needs, an individualized strategy*
17 *to provide the offender with programming to address those needs,*
18 *and a statement of the expectations for the offender to progress*
19 *toward fewer restrictions and lower levels of custody based on the*
20 *offender's behavior. The department shall provide the plan to the*
21 *offender and explain it, so that the offender can understand those*
22 *expectations. A copy of the plan shall be placed in the offender's*
23 *central file.*

24 *(b) An offender serving a determinate Security Housing Unit*
25 *term shall be provided with promising or evidence-based*
26 *programming consistent with addressing the conduct giving rise*
27 *to the offender's determinate Security Housing Unit term. The*
28 *programming shall promote the successful assimilation of the*
29 *offender back into the general prison population. Information*
30 *obtained from the offender during the programming shall not be*
31 *used in a Rules Violation Report against the offender, or to keep*
32 *the offender in the Security Housing Unit.*

33 *(c) The department shall track the offender's progress in meeting*
34 *the requirements of the plan described in subdivision (a).*

35 *(d) An offender serving a determinate Security Housing Unit*
36 *term shall be assessed by a correctional counselor every 90 days,*
37 *in order to monitor the offender's progress. The correctional*
38 *counselor and the offender resource specialist shall meet with the*
39 *offender and provide the offender with a progress report that*
40 *outlines what requirements the offender is not meeting and what*

1 *the offender is expected to do to be eligible for additional privileges*
2 *and early release from the Security Housing Unit. An interpreter*
3 *shall be provided, if necessary, so that the offender can understand*
4 *and participate in the assessment. A copy of the report shall be*
5 *placed in offender's central file.*

6 *(e) An offender serving a determinate Security Housing Unit*
7 *term shall be eligible to earn credits towards early release from*
8 *the Security Housing Unit. The department shall be responsible*
9 *for developing guidelines for earning those credits.*

10 *(f) The department shall prepare a comprehensive reentry plan*
11 *for every offender who will parole directly out of the Security*
12 *Housing Unit or Psychiatric Services Unit into the community.*

13 *(g) (1) Commencing on July 1, 2016, and annually thereafter,*
14 *the Inspector General shall provide an audit report to the Governor*
15 *and the Legislature of the offenders serving a determinate Security*
16 *Housing Unit term to assess the department's compliance with*
17 *this section.*

18 *(2) The report required by paragraph (1) shall be submitted in*
19 *compliance with Section 9795 of the Government Code.*

20 *2698. (a) An offender placed in the Security Housing Unit or*
21 *the Psychiatric Services Unit shall be provided with meaningful*
22 *forms of mental, physical, and social stimulation. Those forms of*
23 *stimulation shall include, but not be limited to, the following:*

24 *(1) Access to educational programming, including in-cell*
25 *programming, that shall be developed for an offender who is not*
26 *permitted to leave his or her cell.*

27 *(2) Opportunities to exercise in the presence of other offenders,*
28 *provided however, that the offenders may be separated by security*
29 *barriers, if necessary.*

30 *(3) Daily face-to-face interaction with both uniformed and*
31 *civilian staff or volunteers.*

32 *(4) Access to radio or television.*

33 *(b) The department shall create a behavior-driven progressive*
34 *incentives program that includes, but is not limited to, the*
35 *following, for any 30-day period where an offender in the Security*
36 *Housing Unit or Psychiatric Services Unit does not receive a rules*
37 *violation report:*

38 *(1) One additional phone call in the following month.*

39 *(2) One additional photograph, for a maximum of 10.*

1 (3) *Four additional hours of recreational yard time in the*
2 *following month.*

3 (c) *An offender shall be entitled to the privileges in subdivision*
4 *(b) if a disciplinary action is reversed, dismissed, or modified to*
5 *a minor rules violation.*

6 (d) *An offender is eligible to earn credits pursuant to Section*
7 *2933 or 2933.05 during the time that he or she is in the Security*
8 *Housing Unit or the Psychiatric Services Unit as provided in*
9 *Section 2933.6.*

10 (e) *On or before July 1, 2016, and biennially thereafter, the*
11 *Office of the Inspector General shall perform an audit to assess*
12 *the department's compliance with this section.*

13 2698.5. (a) *An offender shall undergo a mental health*
14 *screening by a qualified mental health professional within 30 days*
15 *before beginning a term in the Security Housing Unit. An offender*
16 *who has been diagnosed with a serious mental illness or who has*
17 *a history of serious mental illness and decompensation in*
18 *segregated settings shall not be placed in the Security Housing*
19 *Unit.*

20 (b) *The mental health of an offender in the Security Housing*
21 *Unit or Psychiatric Services Unit shall be monitored as follows:*

22 (1) *Correctional staff shall maintain a daily log documenting*
23 *the offender's behavior.*

24 (2) *A qualified mental health professional shall, at least weekly,*
25 *observe offenders in the Security Housing Unit and the Psychiatric*
26 *Services Unit, speak to unit staff, review the offender log, and*
27 *observe and speak to offenders who are receiving mental health*
28 *treatment.*

29 (3) *A qualified mental health professional shall perform a*
30 *comprehensive mental health assessment of an offender in the*
31 *Security Housing Unit or the Psychiatric Services Unit every 90*
32 *days, unless a qualified mental health professional determines that*
33 *the assessment is unnecessary based on observations made*
34 *pursuant to paragraphs (1) and (2).*

35 (c) *The department shall provide training to all correctional*
36 *staff in the Security Housing Unit and Psychiatric Services Unit*
37 *on how to respond to an individual experiencing a psychiatric*
38 *crisis in ways that reduce rather than escalate the crisis.*

39 2699. *The Office of the Inspector General shall employ two*
40 *offender resource specialists for each Security Housing Unit and*

1 *Psychiatric Services Unit. The offender resource specialist's*
2 *responsibilities shall include, but not be limited to, the following:*

3 (a) *Assisting an offender with concerns and questions*
4 *concerning the offender's responsibilities and rights during*
5 *confinement in the Security Housing Unit or Psychiatric Services*
6 *Unit.*

7 (b) *Responding to inquiries from an offender's family members.*

8 (c) *Explaining Security Housing Unit and Psychiatric Services*
9 *Unit policies to the public.*

10 2699.5. (a) *Commencing July 1, 2015, the department shall*
11 *collect the following data:*

12 (1) *Information relating to each offender who is going through,*
13 *or has gone through, the validation process for determining a*
14 *security threat group affiliate, including the following:*

15 (A) *The offender's gender, age, mental health status, and race.*

16 (B) *The outcome at every step of the validation process.*

17 (C) *If the offender was validated, the date of validation.*

18 (D) *If the offender was validated, the level of validation that*
19 *the offender assigned.*

20 (2) *Information relating to the offender being housed in the*
21 *Security Housing Unit or Psychiatric Services Unit, including the*
22 *following:*

23 (A) *The offender's gender, age, mental health status, and race.*

24 (B) *The date the offender was placed in the Security Housing*
25 *Unit or Psychiatric Services Unit and the date of release.*

26 (C) *The reason the offender is serving a Security Housing Unit*
27 *term.*

28 (D) *If the offender is serving an indeterminate Security Housing*
29 *Unit term, the progress the offender has made in the Step Down*
30 *Program.*

31 (E) *For offenders in the Step Down Program, the time spent in*
32 *each step of the program.*

33 (F) *The number of visits from persons other than staff that the*
34 *offender was provided while serving a term in the Security Housing*
35 *Unit or Psychiatric Services Unit.*

36 (G) *The number of phone calls the offender was provided while*
37 *serving a term in the Security Housing Unit.*

38 (H) *Whether the offender attempted to commit or committed*
39 *suicide.*

1 (I) Any disciplinary action taken against the offender, and the
2 result of that action.

3 (J) Whether the offender was paroled directly out of the Security
4 Housing Unit or the Psychiatric Services Unit into the community.

5 (3) The number of administrative appeals filed by offenders in
6 the Security Housing Unit or Psychiatric Services Unit, the subject
7 matter of the appeals, and the outcome of the appeals.

8 (b) Commencing January 1, 2017, and biennially thereafter,
9 the Office of the Inspector General shall use the data described
10 in subdivision (a) to prepare a report to the Legislature that
11 includes, but is not limited to, the following information:

12 (1) The number of offenders investigated for security threat
13 group validation.

14 (2) The number of cases in which the Office of Correctional
15 Safety recommended against validation and the outcome of those
16 cases.

17 (3) The number of cases in which the security threat group
18 committee decided not to validate the offender.

19 (4) The number of offenders who were not initially placed in
20 the Security Housing Unit or Psychiatric Services Unit but were
21 sent to the Security Housing Unit or Psychiatric Services Unit
22 within six months of validation.

23 (5) The number of offenders placed for an indeterminate Security
24 Housing Unit term or in the Psychiatric Services Unit.

25 (6) The number of offenders placed for a determinate Security
26 Housing Unit term or in the Psychiatric Services Unit.

27 (7) The average length of time offenders serving an
28 indeterminate Security Housing Unit term spent in the Security
29 Housing Unit or the Psychiatric Services Unit, or both.

30 (8) The average length of time offenders spent in each step of
31 the Step Down Program.

32 (9) The number of suicide attempts made by offenders in the
33 Security Housing Unit and the Psychiatric Services Unit.

34 (10) The number of suicides by offenders in the Security Housing
35 Unit and the Psychiatric Services Unit.

36 (11) The number of offenders in the Security Housing Unit and
37 the Psychiatric Services Unit who were paroled directly out of the
38 Security Housing Unit and the Psychiatric Services Unit into the
39 community.

1 (12) *The number of disciplinary actions taken against offenders*
2 *in the Security Housing Unit and the Psychiatric Services Unit,*
3 *the type of actions, and the outcomes of the disciplinary actions.*

4 (13) *The number of visits by persons other than staff to offenders*
5 *in the Security Housing Unit and the Psychiatric Services Unit.*

6 (14) *The number of phone calls provided to offenders in the*
7 *Security Housing Unit and the Psychiatric Services Unit.*

8 (15) *The number of administrative appeals filed by offenders*
9 *in the Security Housing Unit or the Psychiatric Services Unit, the*
10 *subject matter of the appeals, and the outcomes of those appeals.*

11 (c) *The report required by subdivision (b) shall be submitted in*
12 *compliance with Section 9795 of the Government Code.*

13 *SEC. 4. Section 2932 of the Penal Code is amended to read:*

14 2932. (a) (1) For any time credit accumulated pursuant to
15 Section 2931 or 2933, not more than 360 days of credit may be
16 denied or lost for a single act of murder, attempted murder,
17 solicitation of murder, manslaughter, rape, sodomy, or oral
18 copulation accomplished against the victim's will, attempted rape,
19 attempted sodomy, or attempted oral copulation accomplished
20 against the victim's will, assault or battery causing serious bodily
21 injury, assault with a deadly weapon or caustic substance, taking
22 of a hostage, escape with force or violence, or possession or
23 manufacture of a deadly weapon or explosive device, whether or
24 not prosecution is undertaken for purposes of this paragraph.
25 Solicitation of murder shall be proved by the testimony of two
26 witnesses, or of one witness and corroborating circumstances.

27 (2) Not more than 180 days of credit may be denied or lost for
28 a single act of misconduct, except as specified in paragraph (1),
29 which could be prosecuted as a felony whether or not prosecution
30 is undertaken.

31 (3) Not more than 90 days of credit may be denied or lost for a
32 single act of misconduct which could be prosecuted as a
33 misdemeanor, whether or not prosecution is undertaken.

34 (4) Not more than 30 days of credit may be denied or lost for a
35 single act of misconduct defined by regulation as a serious
36 disciplinary offense by the Department of Corrections and
37 Rehabilitation. Any person confined due to a change in custodial
38 classification following the commission of any serious disciplinary
39 infraction shall, in addition to any loss of time credits, be ineligible
40 to receive participation or worktime credit for a period not to

1 exceed the number of days of credit which have been lost for the
2 act of misconduct or 180 days, whichever is less. Any person
3 confined in a ~~secure housing unit~~ *Security Housing Unit* for having
4 committed any misconduct specified in paragraph (1) in which
5 great bodily injury is inflicted upon a nonprisoner shall, in addition
6 to any loss of time credits, be ineligible to receive participation or
7 worktime credit for a period not to exceed the number of days of
8 credit which have been lost for that act of misconduct. In unusual
9 cases, an inmate may be denied the opportunity to participate in a
10 credit qualifying assignment for up to six months beyond the period
11 specified in this subdivision if the Secretary of the Department of
12 Corrections and Rehabilitation finds, after a hearing, that no credit
13 qualifying program may be assigned to the inmate without creating
14 a substantial risk of physical harm to staff or other inmates. At the
15 end of the six-month period and of successive six-month periods,
16 the denial of the opportunity to participate in a credit qualifying
17 assignment may be renewed upon a hearing and finding by the
18 director.

19 (5) The prisoner may appeal the decision through the
20 department's review procedure, which shall include a review by
21 an individual independent of the institution who has supervisory
22 authority over the institution.

23 (b) For any credit accumulated pursuant to Section 2931, not
24 more than 30 days of participation credit may be denied or lost for
25 a single failure or refusal to participate. Any act of misconduct
26 described by the Department of Corrections and Rehabilitation as
27 a serious disciplinary infraction if committed while participating
28 in work, educational, vocational, therapeutic, or other prison
29 activity shall be deemed a failure to participate.

30 (c) Any procedure not provided for by this section, but necessary
31 to carry out the purposes of this section, shall be those procedures
32 provided for by the Department of Corrections and Rehabilitation
33 for serious disciplinary infractions if those procedures are not in
34 conflict with this section.

35 (1) (A) The Department of Corrections and Rehabilitation shall,
36 using reasonable diligence to investigate, provide written notice
37 to the prisoner. The written notice shall be given within 15 days
38 after the discovery of information leading to charges that may
39 result in a possible denial of credit, except that if the prisoner has
40 escaped, the notice shall be given within 15 days of the prisoner's

1 return to the custody of the secretary. The written notice shall
2 include the specific charge, the date, the time, the place that the
3 alleged misbehavior took place, the evidence relied upon, a written
4 explanation of the procedures that will be employed at the
5 proceedings and the prisoner's rights at the hearing. The hearing
6 shall be conducted by an individual who shall be independent of
7 the case and shall take place within 30 days of the written notice.

8 (B) The Department of Corrections and Rehabilitation may
9 delay written notice beyond 15 days when all of the following
10 factors are true:

11 (i) An act of misconduct is involved which could be prosecuted
12 as murder, attempted murder, or assault on a prison employee,
13 whether or not prosecution is undertaken.

14 (ii) Further investigation is being undertaken for the purpose of
15 identifying other prisoners involved in the misconduct.

16 (iii) Within 15 days after the discovery of information leading
17 to charges that may result in a possible denial of credit, the
18 investigating officer makes a written request to delay notifying
19 that prisoner and states the reasons for the delay.

20 (iv) The warden of the institution approves of the delay in
21 writing.

22 The period of delay under this paragraph shall not exceed 30
23 days. The prisoner's hearing shall take place within 30 days of the
24 written notice.

25 (2) The prisoner may elect to be assigned an employee to assist
26 in the investigation, preparation, or presentation of a defense at
27 the disciplinary hearing if it is determined by the department that
28 either of the following circumstances exist:

29 (A) The prisoner is illiterate.

30 (B) The complexity of the issues or the prisoner's confinement
31 status makes it unlikely that the prisoner can collect and present
32 the evidence necessary for an adequate comprehension of the case.

33 (3) The prisoner may request witnesses to attend the hearing
34 and they shall be called unless the person conducting the hearing
35 has specific reasons to deny this request. The specific reasons shall
36 be set forth in writing and a copy of the document shall be
37 presented to the prisoner.

38 (4) The prisoner has the right, under the direction of the person
39 conducting the hearing, to question all witnesses.

1 (5) At the conclusion of the hearing the charge shall be
2 dismissed if the facts do not support the charge, or the prisoner
3 may be found guilty on the basis of a preponderance of the
4 evidence.

5 (d) If found guilty the prisoner shall be advised in writing of
6 the guilty finding and the specific evidence relied upon to reach
7 this conclusion and the amount of time-credit loss. The prisoner
8 may appeal the decision through the department's review
9 procedure, and may, upon final notification of appeal denial, within
10 15 days of the notification demand review of the department's
11 denial of credit to the Board of Parole Hearings, and the board
12 may affirm, reverse, or modify the department's decision or grant
13 a hearing before the board at which hearing the prisoner shall have
14 the rights specified in Section 3041.5.

15 (e) Each prisoner subject to Section 2931 shall be notified of
16 the total amount of good behavior and participation credit which
17 may be credited pursuant to Section 2931, and his or her anticipated
18 time-credit release date. The prisoner shall be notified of any
19 change in the anticipated release date due to denial or loss of
20 credits, award of worktime credit, under Section 2933, or the
21 restoration of any credits previously forfeited.

22 (f) (1) If the conduct the prisoner is charged with also
23 constitutes a crime, the department may refer the case to criminal
24 authorities for possible prosecution. The department shall notify
25 the prisoner, who may request postponement of the disciplinary
26 proceedings pending the referral.

27 (2) The prisoner may revoke his or her request for postponement
28 of the disciplinary proceedings up until the filing of the accusatory
29 pleading. In the event of the revocation of the request for
30 postponement of the proceeding, the department shall hold the
31 hearing within 30 days of the revocation.

32 (3) Notwithstanding the notification requirements in this
33 paragraph and subparagraphs (A) and (B) of paragraph (1) of
34 subdivision (c), in the event the case is referred to criminal
35 authorities for prosecution and the authority requests that the
36 prisoner not be notified so as to protect the confidentiality of its
37 investigation, no notice to the prisoner shall be required until an
38 accusatory pleading is filed with the court, or the authority notifies
39 the warden, in writing, that it will not prosecute or it authorizes
40 the notification of the prisoner. The notice exceptions provided

1 for in this paragraph shall only apply if the criminal authority
2 requests of the warden, in writing, and within the 15 days provided
3 in subparagraph (A) of paragraph (1) of subdivision (c), that the
4 prisoner not be notified. Any period of delay of notice to the
5 prisoner shall not exceed 30 days beyond the 15 days referred to
6 in subdivision (c). In the event that no prosecution is undertaken,
7 the procedures in subdivision (c) shall apply, and the time periods
8 set forth in that subdivision shall commence to run from the date
9 the warden is notified in writing of the decision not to prosecute.
10 In the event the authority either cancels its requests that the prisoner
11 not be notified before it makes a decision on prosecution or files
12 an accusatory pleading, the provisions of this paragraph shall apply
13 as if no request had been received, beginning from the date of the
14 cancellation or filing.

15 (4) In the case where the prisoner is prosecuted by the district
16 attorney, the Department of Corrections and Rehabilitation shall
17 not deny time credit where the prisoner is found not guilty and
18 may deny credit if the prisoner is found guilty, in which case the
19 procedures in subdivision (c) shall not apply.

20 (g) If time credit denial proceedings or criminal prosecution
21 prohibit the release of a prisoner who would have otherwise been
22 released, and the prisoner is found not guilty of the alleged
23 misconduct, the amount of time spent incarcerated, in excess of
24 what the period of incarceration would have been absent the alleged
25 misbehavior, shall be deducted from the prisoner's parole period.

26 (h) Nothing in the amendments to this section made at the
27 1981–82 Regular Session of the Legislature shall affect the granting
28 or revocation of credits attributable to that portion of the prisoner's
29 sentence served prior to January 1, 1983.

30 *SEC. 5. Section 2933.6 of the Penal Code is amended to read:*

31 2933.6. (a) Notwithstanding any other law, a person who is
32 placed in a Security Housing Unit, Psychiatric Services Unit,
33 Behavioral Management Unit, or an Administrative Segregation
34 Unit for misconduct described in subdivision (b) or upon validation
35 as a prison gang member or associate is ineligible to earn credits
36 pursuant to Section 2933 or 2933.05 during the time he or she is
37 in the Security Housing Unit, Psychiatric Services Unit, Behavioral
38 Management Unit, or the Administrative Segregation Unit for that
39 misconduct.

40 (b) This section applies to the following offenses:

1 (1) Murder, attempted murder, and solicitation of murder. For
2 purposes of this paragraph, solicitation of murder shall be proven
3 by the testimony of two witnesses, or of one witness and
4 corroborating circumstances.

5 (2) Manslaughter.

6 (3) Assault or battery causing serious bodily injury.

7 (4) Assault or battery on a peace officer or other nonprisoner
8 which results in physical injury.

9 (5) Assault with a deadly weapon or caustic substance.

10 (6) Rape, attempted rape, sodomy, attempted sodomy, oral
11 copulation, or attempted oral copulation accomplished against the
12 victim's will.

13 (7) Taking a hostage.

14 (8) Escape or attempted escape with force or violence.

15 (9) Escape from any departmental prison or institution other
16 than a camp or reentry facility.

17 (10) Possession or manufacture of a deadly weapon or explosive
18 device.

19 (11) Arson involving damage to a structure.

20 (12) Possession of flammable, explosive material with intent to
21 burn any structure or property.

22 (13) Solicitation of assault with a deadly weapon or assault by
23 means of force likely to produce great bodily injury, arson, or a
24 forcible sex act.

25 (14) Intentional destruction of state property in excess of four
26 hundred dollars (\$400) during a riot or disturbance.

27 (c) This section does not apply if the administrative finding of
28 the misconduct is overturned or if the person is criminally
29 prosecuted for the misconduct and is found not guilty.

30 (d) *This section does not apply during any period during which*
31 *an offender in the Security Housing Unit has remained free of*
32 *disciplinary action for six consecutive months.*

33 ~~SECTION 1. It is the intent of the Legislature to enact~~
34 ~~legislation to address or modify the use of segregated housing units~~
35 ~~in the state prison system.~~