

ASSEMBLY BILL

No. 303

Introduced by Assembly Member Gonzalez

February 12, 2015

An act to amend Section 1203.2 of the Penal Code, relating to supervised persons.

LEGISLATIVE COUNSEL'S DIGEST

AB 303, as introduced, Gonzalez. Supervised persons.

Existing law allows a probation officer, parole officer, or peace officer to arrest a person without warrant or other process during the period that a person is released on probation, conditional sentence or summary probation, or mandatory supervision, or when the person is subject to revocation of postrelease community supervision or parole supervision, if the officer has probable cause to believe that the supervised person is violating the terms of his or her supervision. Under existing law, the revocation of supervision, summary or otherwise, serves to toll the running of the period of supervision.

This bill would make technical, nonsubstantive changes to those provisions.

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

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

- 1 SECTION 1. Section 1203.2 of the Penal Code is amended to
2 read:
3 1203.2. (a) At any time during the period of supervision of a
4 person (1) released on probation under the care of a probation

1 officer pursuant to this chapter, (2) released on conditional sentence
2 or summary probation not under the care of a probation officer,
3 (3) placed on mandatory supervision pursuant to subparagraph (B)
4 of paragraph (5) of subdivision (h) of Section 1170, (4) subject to
5 revocation of postrelease community supervision pursuant to
6 Section 3455, or (5) subject to revocation of parole supervision
7 pursuant to Section 3000.08, if any probation officer, parole officer,
8 or peace officer has probable cause to believe that the supervised
9 person is violating any term or condition of his or her supervision,
10 the officer may, without warrant or other process and at any time
11 until the final disposition of the case, rearrest the supervised person
12 and bring him or her before the court or the court may, in its
13 discretion, issue a warrant for his or her rearrest. Upon ~~such~~
14 rearrest, or upon the issuance of a warrant for rearrest the court
15 may revoke and terminate the supervision of the person if the
16 interests of justice so require and the court, in its judgment, has
17 reason to believe from the report of the probation or parole officer
18 or otherwise that the person has violated any of the conditions of
19 his or her supervision, has become abandoned to improper
20 associates or a vicious life, or has subsequently committed other
21 offenses, regardless *of* whether he or she has been prosecuted for
22 ~~such~~ *those* offenses. However, the court shall not terminate parole
23 pursuant to this section. Supervision shall not be revoked for failure
24 of a person to make restitution imposed as a condition of
25 supervision unless the court determines that the defendant has
26 willfully failed to pay and has the ability to pay. Restitution shall
27 be consistent with a person's ability to pay. The revocation,
28 summary or otherwise, shall serve to toll the running of the period
29 of supervision.

30 (b) (1) Upon its own motion or upon the petition of the
31 supervised person, the probation or parole officer, or the district
32 attorney, the court may modify, revoke, or terminate supervision
33 of the person pursuant to this subdivision, except that the court
34 shall not terminate parole pursuant to this section. The court in the
35 county in which the person is supervised has jurisdiction to hear
36 the motion or petition, or for those on parole, either the court in
37 the county of supervision or the court in the county in which the
38 alleged violation of supervision occurred. A person supervised on
39 parole or postrelease community supervision pursuant to Section
40 3455 may not petition the court pursuant to this section for early

1 release from supervision, and a petition under this section shall
2 not be filed solely for the purpose of modifying parole. ~~Nothing~~
3 ~~in this section shall~~ *This section does not* prohibit the court in the
4 county in which the person is supervised or in which the alleged
5 violation of supervision occurred from modifying a person's parole
6 when acting on the court's own motion or a petition to revoke
7 parole. The court shall give notice of its motion, and the probation
8 or parole officer or the district attorney shall give notice of his or
9 her petition to the supervised person, his or her attorney of record,
10 and the district attorney or the probation or parole officer, as the
11 case may be. The supervised person shall give notice of his or her
12 petition to the probation or parole officer and notice of any motion
13 or petition shall be given to the district attorney in all cases. The
14 court shall refer its motion or the petition to the probation or parole
15 officer. After the receipt of a written report from the probation or
16 parole officer, the court shall read and consider the report and
17 either its motion or the petition and may modify, revoke, or
18 terminate the supervision of the supervised person upon the
19 grounds set forth in subdivision (a) if the interests of justice so
20 require.

21 (2) The notice required by this subdivision may be given to the
22 supervised person upon his or her first court appearance in the
23 proceeding. Upon the agreement by the supervised person in
24 writing to the specific terms of a modification or termination of a
25 specific term of supervision, any requirement that the supervised
26 person make a personal appearance in court for the purpose of a
27 modification or termination shall be waived. Prior to the
28 modification or termination and waiver of appearance, the
29 supervised person shall be informed of his or her right to consult
30 with counsel, and if indigent the right to secure court appointed
31 counsel. If the supervised person waives his or her right to counsel
32 a written waiver shall be required. If the supervised person consults
33 with counsel and thereafter agrees to a modification, revocation,
34 or termination of the term of supervision and waiver of personal
35 appearance, the agreement shall be signed by counsel showing
36 approval for the modification or termination and waiver.

37 (c) Upon any revocation and termination of probation the court
38 may, if the sentence has been suspended, pronounce judgment for
39 any time within the longest period for which the person might have
40 been sentenced. However, if the judgment has been pronounced

1 and the execution thereof has been suspended, the court may revoke
2 the suspension and order that the judgment shall be in full force
3 and effect. In either case, the person shall be delivered over to the
4 proper officer to serve his or her sentence, less any credits herein
5 provided for.

6 (d) In any case of revocation and termination of probation,
7 including, but not limited to, cases in which the judgment has been
8 pronounced and the execution thereof has been suspended, upon
9 the revocation and termination, the court may, in lieu of any other
10 sentence, commit the person to the Department of Corrections and
11 Rehabilitation, Division of Juvenile Facilities if he or she is
12 otherwise eligible for ~~such~~ *that* commitment.

13 (e) If probation has been revoked before the judgment has been
14 pronounced, the order revoking probation may be set aside for
15 good cause upon motion made before pronouncement of judgment.
16 If probation has been revoked after the judgment has been
17 pronounced, the judgment and the order which revoked the
18 probation may be set aside for good cause within 30 days after the
19 court has notice that the execution of the sentence has commenced.
20 If an order setting aside the judgment, the revocation of probation,
21 or both is made after the expiration of the probationary period, the
22 court may again place the person on probation for that period and
23 with those terms and conditions as it could have done immediately
24 following conviction.

25 (f) As used in this section, the following definitions shall apply:

26 (1) "Court" means a judge, magistrate, or revocation hearing
27 officer described in Section 71622.5 of the Government Code.

28 (2) "Probation officer" means a probation officer as described
29 in Section 1203 or an officer of the agency designated by the board
30 of supervisors of a county to implement postrelease community
31 supervision pursuant to Section 3451.

32 (3) "Supervised person" means a person who satisfies any of
33 the following:

34 (A) He or she is released on probation subject to the supervision
35 of a probation officer.

36 (B) He or she is released on conditional sentence or summary
37 probation not under the care of a probation officer.

38 (C) He or she is subject to mandatory supervision pursuant to
39 subparagraph (B) of paragraph (5) of subdivision (h) of Section
40 1170.

1 (D) He or she is subject to revocation of postrelease community
2 supervision pursuant to Section 3455.

3 (E) He or she is subject to revocation of parole pursuant to
4 Section 3000.08.

5 (g) ~~Nothing in this section affects~~ *This section does not affect*
6 the authority of the supervising agency to impose intermediate
7 sanctions, including flash incarceration, to persons supervised on
8 parole pursuant to Section 3000.8 or postrelease community
9 supervision pursuant to Part 3 (commencing with Section 3450)
10 of Title 2.05.

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