

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 487**

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**Introduced by Assembly Member Gonzalez**  
(Coauthor: Senator Anderson)

February 23, 2015

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An act to amend Section 3041.5 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

AB 487, as amended, Gonzalez. Parole hearings: notification of district attorneys.

Existing law provides that, one year prior to the minimum eligible parole release date of an inmate serving an indeterminate sentence, a panel of 2 or more commissioners or deputy commissioners of the Board of Parole Hearings shall meet with the inmate and set a parole release date, as specified. Existing law, as amended by Proposition 9, the Victim's Bill of Rights Act of 2008: Marsy's Law, at the November 4, 2008, statewide general election, establishes procedures at all hearings for the purpose of reviewing a prisoner's parole suitability, or the setting, postponing, or rescinding of parole dates, and provides prisoners and victims specified rights at these hearings.

This bill would require notification of the district attorney of the county in which the offense was committed, or his or her designee, to receive notification of specified parole proceedings and would require, if notice is not provided, any action on a hearing advancement to be postponed until notice is properly made. *proceedings*.

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 3041.5 of the Penal Code is amended to  
2 read:

3 3041.5. (a) At all hearings for the purpose of reviewing a  
4 prisoner's parole suitability, or the setting, postponing, or  
5 rescinding of parole dates, with the exception of en banc review  
6 of tie votes, the following shall apply:

7 (1) At least 10 days prior to any hearing by the Board of Parole  
8 Hearings, the prisoner shall be permitted to review his or her file  
9 which will be examined by the board and shall have the opportunity  
10 to enter a written response to any material contained in the file.

11 (2) The prisoner shall be permitted to be present, to ask and  
12 answer questions, and to speak on his or her own behalf. Neither  
13 the prisoner nor the attorney for the prisoner shall be entitled to  
14 ask questions of ~~any~~ a person appearing at the hearing pursuant  
15 to subdivision (b) of Section 3043.

16 (3) Unless legal counsel is required by ~~some other provision of~~  
17 *another* law, a person designated by the Department of Corrections  
18 and Rehabilitation shall be present to ensure that all facts relevant  
19 to the decision are presented, including, if necessary, contradictory  
20 assertions as to matters of fact that have not been resolved by  
21 departmental or other procedures.

22 (4) The prisoner and ~~any~~ a person described in subdivision (b)  
23 of Section 3043 shall be permitted to request and receive a  
24 stenographic record of all proceedings.

25 (5) If the hearing is for the purpose of postponing or rescinding  
26 of parole dates, the prisoner shall have rights set forth in paragraphs  
27 (3) and (4) of subdivision (c) of Section 2932.

28 (6) The board shall set a date to reconsider whether an inmate  
29 should be released on parole that ensures a meaningful  
30 consideration of whether the inmate is suitable for release on  
31 parole.

32 (b) (1) Within 10 days following ~~any~~ a meeting where a parole  
33 date has been set, the board shall send the prisoner a written  
34 statement setting forth his or her parole date, the conditions he or

1 she must meet in order to be released on the date set, and the  
2 consequences of failure to meet those conditions.

3 (2) Within 20 days following ~~any~~ a meeting where a parole date  
4 has not been set, the board shall send the prisoner a written  
5 statement setting forth the reason or reasons for refusal to set a  
6 parole date, and suggest activities in which he or she might  
7 participate that will benefit him or her while he or she is  
8 incarcerated.

9 (3) The board shall schedule the next hearing, after considering  
10 the views and interests of the victim, as follows:

11 (A) Fifteen years after ~~any~~ a hearing at which parole is denied,  
12 unless the board finds by clear and convincing evidence that the  
13 criteria relevant to the setting of parole release dates enumerated  
14 in subdivision (a) of Section 3041 are such that consideration of  
15 the public and victim's safety does not require a more lengthy  
16 period of incarceration for the prisoner than 10 additional years.

17 (B) Ten years after ~~any~~ a hearing at which parole is denied,  
18 unless the board finds by clear and convincing evidence that the  
19 criteria relevant to the setting of parole release dates enumerated  
20 in subdivision (a) of Section 3041 are such that consideration of  
21 the public and victim's safety does not require a more lengthy  
22 period of incarceration for the prisoner than seven additional years.

23 (C) Three years, five years, or seven years after ~~any~~ a hearing  
24 at which parole is denied, because the criteria relevant to the setting  
25 of parole release dates enumerated in subdivision (a) of Section  
26 3041 are such that consideration of the public and victim's safety  
27 requires a more lengthy period of incarceration for the prisoner,  
28 but does not require a more lengthy period of incarceration for the  
29 prisoner than seven additional years.

30 (4) The board ~~may~~ *may*, in its discretion, after considering the  
31 views and interests of the victim and the district attorney of the  
32 county in which the offense was committed, advance a hearing set  
33 pursuant to paragraph (3) to an earlier date, when a change in  
34 circumstances or new information establishes a reasonable  
35 likelihood that consideration of the public and victim's safety does  
36 not require the additional period of incarceration of the prisoner  
37 provided *for* in paragraph (3).

38 (5) Within 10 days of ~~any~~ a board action resulting in the  
39 postponement of a previously set parole date, the board shall send  
40 the prisoner a written statement setting forth a new date and the

1 reason or reasons for that action and shall offer the prisoner an  
2 opportunity for review of that action.

3 (6) Within 10 days of ~~any~~ a board action resulting in the  
4 rescinding of a previously set parole date, the board shall send the  
5 prisoner a written statement setting forth the reason or reasons for  
6 that action, and shall schedule the prisoner's next hearing in  
7 accordance with paragraph (3).

8 (c) The board shall conduct a parole hearing pursuant to this  
9 section as a de novo hearing. Findings made and conclusions  
10 reached in a prior parole hearing shall be considered in, but shall  
11 not be deemed to be binding upon, subsequent parole hearings for  
12 an inmate, but shall be subject to reconsideration based upon  
13 changed facts and circumstances. When conducting a hearing, the  
14 board shall admit the prior recorded or memorialized testimony  
15 or statement of a victim or witness, upon request of the victim or  
16 if the victim or witness has died or become unavailable. At each  
17 hearing the board shall determine the appropriate action to be taken  
18 based on the criteria set forth in subdivision (b) of Section 3041.

19 (d) (1) An inmate may request that the board exercise its  
20 discretion to advance a hearing set pursuant to paragraph (3) of  
21 subdivision (b) to an earlier date, by submitting a written request  
22 to the board, which shall set forth the change in circumstances or  
23 new information that establishes a reasonable likelihood that  
24 consideration of the public safety does not require the additional  
25 period of incarceration of the inmate. The board shall provide  
26 notice of the request to the district attorney and the victim, if the  
27 victim has previously requested notification of all board actions,  
28 no less than 30 days before the board may grant the inmate's  
29 request. Notice shall be satisfied by mailing copies of the inmate's  
30 request to the office of the district attorney and, if applicable, to  
31 the last address provided by the victim to the Office of Victim and  
32 Survivor Rights and Services.

33 (2) The board shall have sole jurisdiction, after considering the  
34 views and interests of the district attorney of the county in which  
35 the offense was committed, or his or her representative, and the  
36 victim to determine whether to grant or deny a written request  
37 made pursuant to paragraph (1), and its decision shall be subject  
38 to review by a court or magistrate only for a manifest abuse of  
39 discretion by the board. The board shall have the power to  
40 summarily deny a request that does not comply with the provisions

1 of this subdivision or that does not set forth a change in  
2 circumstances or new information as required in paragraph (1) that  
3 in the judgment of the board is sufficient to justify the action  
4 described in paragraph (4) of subdivision (b).

5 (3) An inmate may make only one written request as provided  
6 in paragraph (1) during each three-year period. Following either  
7 a summary denial of a request made pursuant to paragraph (1), or  
8 the decision of the board after a hearing described in subdivision  
9 (a) to not set a parole date, the inmate shall not be entitled to submit  
10 another request for a hearing pursuant to subdivision (a) until a  
11 three-year period of time has elapsed from the summary denial or  
12 decision of the board.

13 ~~(4) Failure to provide notification as required in paragraph (1)~~  
14 ~~shall postpone any action being taken on the hearing advancement~~  
15 ~~until the notice is properly made.~~

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