

ASSEMBLY BILL

No. 2205

Introduced by Assembly Member Dodd

February 18, 2016

An act to amend Sections 1170, 1203.2, and 3456 of the Penal Code, relating to supervised persons.

LEGISLATIVE COUNSEL'S DIGEST

AB 2205, as introduced, Dodd. Supervised persons: credits.

Existing law, until January 1, 2017, requires that when a statute imposes 3 possible terms of imprisonment, the choice of the appropriate term to impose is within the court's discretion. Existing law authorizes a court, when sentencing a person to county jail for a felony, to commit the person to county jail for either the full term in custody, as specified, or to suspend the execution of a concluding portion of the term selected at the court's discretion. Under existing law, this period of suspended execution is supervised by the county probation officer and is known as mandatory supervision. Existing law prohibits any time period which is suspended because a person has absconded from being credited toward the period of supervision.

This bill would extend the operation of the sentencing term provisions described above until January 1, 2020. This bill would revise those provisions to prohibit the period of time during any revocation, summary or otherwise, of mandatory supervision from being credited toward any period of supervision, remain in custody for a period longer than the term of supervision.

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 instead prohibit the period of time during any revocation, summary or otherwise, from being credited toward any period of supervision.

Existing law requires a county agency responsible for postrelease supervision to maintain postrelease supervision over a person subject to that supervision until one of several specified events occurs. Existing law prohibits the time during which a person on postrelease supervision is suspended because the person has absconded from being credited toward any period of postrelease supervision.

This bill would revise that prohibition to prohibit the period of time during any revocation, summary or otherwise, from being credited toward any period of supervision, provided however, that the person subject to postrelease supervision would not remain in custody for a period longer than the authorized term of supervision. The bill would make additional 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 1170 of the Penal Code, as amended by
 2 Section 1 of Chapter 378 of the Statutes of 2015, is amended to
 3 read:
 4 1170. (a) (1) The Legislature finds and declares that the
 5 purpose of imprisonment for crime is punishment. This purpose
 6 is best served by terms proportionate to the seriousness of the
 7 offense with provision for uniformity in the sentences of offenders
 8 committing the same offense under similar circumstances. The
 9 Legislature further finds and declares that the elimination of
 10 disparity and the provision of uniformity of sentences ~~can best be~~
 11 *is best* achieved by determinate sentences fixed by statute in
 12 proportion to the seriousness of the offense as determined by the
 13 Legislature to be imposed by the court with specified discretion.

1 (2) Notwithstanding paragraph (1), the Legislature further finds
2 and declares that programs should be available for inmates,
3 including, but not limited to, educational programs, that are
4 designed to prepare nonviolent felony offenders for successful
5 reentry into the community. The Legislature encourages the
6 development of policies and programs designed to educate and
7 rehabilitate nonviolent felony offenders. In implementing this
8 section, the Department of Corrections and Rehabilitation is
9 encouraged to give priority enrollment in programs to promote
10 successful return to the community to an inmate with a short
11 remaining term of commitment and a release date that would allow
12 him or her adequate time to complete the program.

13 (3) In ~~any~~ a case in which the punishment prescribed by statute
14 for a person convicted of a public offense is a term of imprisonment
15 in the state prison or a term pursuant to subdivision (h) of any
16 specification of three time periods, the court shall sentence the
17 defendant to one of the terms of imprisonment specified unless
18 the convicted person is given any other disposition provided by
19 law, including a fine, jail, probation, or the suspension of
20 imposition or execution of sentence or is sentenced pursuant to
21 subdivision (b) of Section 1168 because he or she had committed
22 his or her crime prior to July 1, 1977. In sentencing the convicted
23 person, the court shall apply the sentencing rules of the Judicial
24 Council. The court, unless it determines that there are
25 circumstances in mitigation of the punishment prescribed, shall
26 also impose any other term that it is required by law to impose as
27 an additional term. Nothing in this article shall affect ~~any provision~~
28 ~~of~~ a law that imposes the death penalty, that authorizes or restricts
29 the granting of probation or suspending the execution or imposition
30 of sentence, or expressly provides for imprisonment in the state
31 prison for life, except as provided in paragraph (2) of subdivision
32 (d). In ~~any~~ a case in which the amount of preimprisonment credit
33 under Section 2900.5 or any other law is equal to or exceeds ~~any~~
34 a sentence imposed pursuant to this chapter, except for the
35 remaining portion of mandatory supervision pursuant to
36 subparagraph (B) of paragraph (5) of subdivision (h), the entire
37 sentence shall be deemed to have been served, except for the
38 remaining period of mandatory supervision, and the defendant
39 shall not be actually delivered to the custody of the secretary or to
40 the custody of the county correctional administrator. The court

1 shall advise the defendant that he or she shall serve an applicable
2 period of parole, postrelease community supervision, or mandatory
3 supervision, and order the defendant to report to the parole or
4 probation office closest to the defendant's last legal residence,
5 unless the in-custody credits equal the total sentence, including
6 both confinement time and the period of parole, postrelease
7 community supervision, or mandatory supervision. The sentence
8 shall be deemed a separate prior prison term or a sentence of
9 imprisonment in a county jail under subdivision (h) for purposes
10 of Section 667.5, and a copy of the judgment and other necessary
11 documentation shall be forwarded to the secretary.

12 (b) When a judgment of imprisonment is to be imposed and the
13 statute specifies three possible terms, the choice of the appropriate
14 term shall rest within the sound discretion of the court. At least
15 four days prior to the time set for imposition of judgment, either
16 party or the victim, or the family of the victim if the victim is
17 deceased, may submit a statement in aggravation or mitigation. In
18 determining the appropriate term, the court may consider the record
19 in the case, the probation officer's report, other reports, including
20 reports received pursuant to Section 1203.03, and statements in
21 aggravation or mitigation submitted by the prosecution, the
22 defendant, or the victim, or the family of the victim if the victim
23 is deceased, and any further evidence introduced at the sentencing
24 hearing. The court shall select the term ~~which~~, *that*, in the court's
25 discretion, best serves the interests of justice. The court shall set
26 forth on the record the reasons for imposing the term selected and
27 the court may not impose an upper term by using the fact of ~~any~~
28 *an* enhancement upon which sentence is imposed under any
29 ~~provision~~ of law. A term of imprisonment shall not be specified
30 if imposition of sentence is suspended.

31 (c) The court shall state the reasons for its sentence choice on
32 the record at the time of sentencing. The court shall also inform
33 the defendant that as part of the sentence after expiration of the
34 term he or she may be on parole for a period as provided in Section
35 3000 or 3000.08 or postrelease community supervision for a period
36 as provided in Section 3451.

37 (d) (1) When a defendant subject to this section or subdivision
38 (b) of Section 1168 has been sentenced to be imprisoned in the
39 state prison or county jail pursuant to subdivision (h) and has been
40 committed to the custody of the secretary or the county correctional

1 administrator, the court may, within 120 days of the date of
2 commitment on its own motion, or at any time upon the
3 recommendation of the secretary or the Board of Parole Hearings
4 in the case of state prison inmates, or the county correctional
5 administrator in the case of county jail inmates, recall the sentence
6 and commitment previously ordered and resentence the defendant
7 in the same manner as if he or she had not previously been
8 sentenced, provided the new sentence, if any, is no greater than
9 the initial sentence. The court resentencing under this subdivision
10 shall apply the sentencing rules of the Judicial Council so as to
11 eliminate disparity of sentences and to promote uniformity of
12 sentencing. Credit shall be given for time served.

13 (2) (A) (i) When a defendant who was under 18 years of age
14 at the time of the commission of the offense for which the
15 defendant was sentenced to imprisonment for life without the
16 possibility of parole has served at least 15 years of that sentence,
17 the defendant may submit to the sentencing court a petition for
18 recall and resentencing.

19 (ii) Notwithstanding clause (i), this paragraph shall not apply
20 to ~~defendants~~ *a defendant* sentenced to life without parole for an
21 offense where the defendant tortured, as described in Section 206,
22 his or her ~~victim~~ *victim*, or the victim was a public safety official,
23 including any law enforcement personnel mentioned in Chapter
24 4.5 (commencing with Section 830) of Title 3, or any firefighter
25 as described in Section 245.1, as well as any other officer in any
26 segment of law enforcement who is employed by the federal
27 government, the state, or any of its political subdivisions.

28 (B) The defendant shall file the original petition with the
29 sentencing court. A copy of the petition shall be served on the
30 agency that prosecuted the case. The petition shall include the
31 defendant's statement that he or she was under 18 years of age at
32 the time of the crime and was sentenced to life in prison without
33 the possibility of parole, the defendant's statement describing his
34 or her remorse and work towards rehabilitation, and the defendant's
35 statement that one of the following is true:

36 (i) The defendant was convicted pursuant to felony murder or
37 aiding and abetting murder provisions of law.

38 (ii) The defendant does not have juvenile felony adjudications
39 for assault or other felony crimes with a significant potential for

1 personal harm to victims prior to the offense for which the sentence
2 is being considered for recall.

3 (iii) The defendant committed the offense with at least one adult
4 codefendant.

5 (iv) The defendant has performed acts that tend to indicate
6 rehabilitation or the potential for rehabilitation, including, but not
7 limited to, availing himself or herself of rehabilitative, educational,
8 or vocational programs, if those programs have been available at
9 his or her classification level and facility, using self-study for
10 self-improvement, or showing evidence of remorse.

11 (C) If any of the information required in subparagraph (B) is
12 missing from the petition, or if proof of service on the prosecuting
13 agency is not provided, the court shall return the petition to the
14 defendant and advise the defendant that the matter cannot be
15 considered without the missing information.

16 (D) A reply to the petition, if any, shall be filed with the court
17 within 60 days of the date on which the prosecuting agency was
18 served with the petition, unless a continuance is granted for good
19 cause.

20 (E) If the court finds by a preponderance of the evidence that
21 the statements in the petition are true, the court shall hold a hearing
22 to consider whether to recall the sentence and commitment
23 previously ordered and to resentence the defendant in the same
24 manner as if the defendant had not previously been sentenced,
25 provided that the new sentence, if any, is not greater than the initial
26 sentence. Victims, or victim family members if the victim is
27 deceased, shall retain ~~the~~ *their* rights to participate in the hearing.

28 (F) The factors that the court may consider when determining
29 whether to recall and resentence include, but are not limited to,
30 the following:

31 (i) The defendant was convicted pursuant to felony murder or
32 aiding and abetting murder provisions of law.

33 (ii) The defendant does not have juvenile felony adjudications
34 for assault or other felony crimes with a significant potential for
35 personal harm to victims prior to the offense for which the sentence
36 is being considered for recall.

37 (iii) The defendant committed the offense with at least one adult
38 codefendant.

39 (iv) Prior to the offense for which the sentence is being
40 considered for recall, the defendant had insufficient adult support

1 or supervision and had suffered from psychological or physical
2 trauma, or significant stress.

3 (v) The defendant suffers from cognitive limitations due to
4 mental illness, developmental disabilities, or other factors that did
5 not constitute a defense, but influenced the defendant's
6 involvement in the offense.

7 (vi) The defendant has performed acts that tend to indicate
8 rehabilitation or the potential for rehabilitation, including, but not
9 limited to, availing himself or herself of rehabilitative, educational,
10 or vocational programs, if those programs have been available at
11 his or her classification level and facility, using self-study for
12 self-improvement, or showing evidence of remorse.

13 (vii) The defendant has maintained family ties or connections
14 with others through letter writing, calls, or visits, or has eliminated
15 contact with individuals outside of prison who are currently
16 involved with crime.

17 (viii) The defendant has had no disciplinary actions for violent
18 activities in the last five years in which the defendant was
19 determined to be the aggressor.

20 (G) The court shall have the discretion to recall the sentence
21 and commitment previously ordered and to resentence the
22 defendant in the same manner as if the defendant had not
23 previously been sentenced, provided that the new sentence, if any,
24 is not greater than the initial sentence. The discretion of the court
25 shall be exercised in consideration of the criteria in subparagraph
26 (B). Victims, or victim family members if the victim is deceased,
27 shall be notified of the resentencing hearing and shall retain their
28 rights to participate in the hearing.

29 (H) If the sentence is not recalled, the defendant may submit
30 another petition for recall and resentencing to the sentencing court
31 when the defendant has been committed to the custody of the
32 department for at least 20 years. If recall and resentencing is not
33 granted under that petition, the defendant may file another petition
34 after having served 24 years. The final petition may be submitted,
35 and the response to that petition shall be determined, during the
36 25th year of the defendant's sentence.

37 (I) In addition to the criteria in subparagraph (F), the court may
38 consider any other criteria that the court deems relevant to its
39 decision, so long as the court identifies them on the record,

1 provides a statement of reasons for adopting them, and states why
2 the defendant does or does not satisfy the criteria.

3 (J) This subdivision shall have retroactive application.

4 (e) (1) Notwithstanding any other law and consistent with
5 paragraph (1) of subdivision (a), if the secretary or the Board of
6 Parole Hearings or both determine that a prisoner satisfies the
7 criteria set forth in paragraph (2), the secretary or the board may
8 recommend to the court that the prisoner's sentence be recalled.

9 (2) The court shall have the discretion to resentence or recall if
10 the court finds that the facts described in subparagraphs (A) and
11 (B) or subparagraphs (B) and (C) exist:

12 (A) The prisoner is terminally ill with an incurable condition
13 caused by an illness or disease that would produce death within
14 six months, as determined by a physician employed by the
15 department.

16 (B) The conditions under which the prisoner would be released
17 or receive treatment do not pose a threat to public safety.

18 (C) (i) The prisoner is permanently medically incapacitated
19 with a medical condition that renders him or her permanently
20 unable to perform activities of basic daily living, and results in the
21 prisoner requiring 24-hour total care, including, but not limited to,
22 coma, persistent vegetative state, brain death,
23 ventilator-dependency, *or* loss of control of muscular or
24 neurological function, and that incapacitation did not exist at the
25 time of the original sentencing.

26 ~~The~~

27 (ii) ~~The~~ Board of Parole Hearings shall make findings pursuant
28 to this subdivision before making a recommendation for resentence
29 or recall to the court. This subdivision does not apply to a prisoner
30 sentenced to death or a term of life without the possibility of parole.

31 (3) Within 10 days of receipt of a positive recommendation by
32 the secretary or the board, the court shall hold a hearing to consider
33 whether the prisoner's sentence should be recalled.

34 (4) ~~Any~~A physician employed by the department who
35 determines that a prisoner has six months or less to live shall notify
36 the chief medical officer of the prognosis. If the chief medical
37 officer concurs with the prognosis, he or she shall notify the
38 warden. Within 48 hours of receiving notification, the warden or
39 the warden's representative shall notify the prisoner of the recall
40 and resentencing procedures, and shall arrange for the prisoner to

1 designate a family member or other outside agent to be notified
2 as to the prisoner's medical condition and prognosis, and as to the
3 recall and resentencing procedures. If the inmate is deemed
4 mentally unfit, the warden or the warden's representative shall
5 contact the inmate's emergency contact and provide the information
6 described in paragraph (2).

7 (5) The warden or the warden's representative shall provide the
8 prisoner and his or her family member, agent, or emergency
9 contact, as described in paragraph (4), updated information
10 throughout the recall and resentencing process with regard to the
11 prisoner's medical condition and the status of the prisoner's recall
12 and resentencing proceedings.

13 (6) Notwithstanding any other ~~provisions~~ *provision* of this
14 section, the prisoner or his or her family member or designee may
15 independently request consideration for recall and resentencing
16 by contacting the chief medical officer at the prison or the
17 secretary. Upon receipt of the request, the chief medical officer
18 and the warden or the warden's representative shall follow the
19 procedures described in paragraph (4). If the secretary determines
20 that the prisoner satisfies the criteria set forth in paragraph (2), the
21 secretary or board may recommend to the court that the prisoner's
22 sentence be recalled. The secretary shall submit a recommendation
23 for release within 30 days in the case of inmates sentenced to
24 determinate terms and, in the case of inmates sentenced to
25 indeterminate terms, the secretary shall make a recommendation
26 to the Board of Parole Hearings with respect to the inmates who
27 have applied under this section. The board shall consider this
28 information and make an independent judgment pursuant to
29 paragraph (2) and make findings related thereto before rejecting
30 the request or making a recommendation to the court. This action
31 shall be taken at the next lawfully noticed board meeting.

32 (7) ~~Any~~ A recommendation for recall submitted to the court by
33 the secretary or the Board of Parole Hearings shall include one or
34 more medical evaluations, a postrelease plan, and findings pursuant
35 to paragraph (2).

36 (8) If possible, the matter shall be heard before the same judge
37 of the court who sentenced the prisoner.

38 (9) If the court grants the recall and resentencing application,
39 the prisoner shall be released by the department within 48 hours
40 of receipt of the court's order, unless a longer time period is agreed

1 to by the inmate. At the time of release, the warden or the warden’s
2 representative shall ensure that the prisoner has ~~each of the~~
3 ~~following~~ in his or her ~~possession~~: *possession*, a discharge medical
4 summary, full medical records, state identification, parole or
5 postrelease community supervision medications, and all property
6 belonging to the prisoner. After discharge, any additional records
7 shall be sent to the prisoner’s forwarding address.

8 (10) The secretary shall issue a directive to medical and
9 correctional staff employed by the department that details the
10 guidelines and procedures for initiating a recall and resentencing
11 procedure. The directive shall clearly state that ~~any~~ a prisoner who
12 is given a prognosis of six months or less to live is eligible for
13 recall and resentencing consideration, and that recall and
14 resentencing procedures shall be initiated upon that prognosis.

15 (11) The provisions of this subdivision shall be available to an
16 inmate who is sentenced to a county jail pursuant to subdivision
17 (h). For purposes of those inmates, “secretary” or “warden” shall
18 mean the county correctional administrator and “chief medical
19 officer” shall mean a physician designated by the county
20 correctional administrator for this purpose.

21 (f) Notwithstanding any other provision of this section, for
22 purposes of paragraph (3) of subdivision (h), ~~any~~ an allegation
23 that a defendant is eligible for state prison due to a prior or current
24 conviction, sentence enhancement, or because he or she is required
25 to register as a sex offender shall not be subject to dismissal
26 pursuant to Section 1385.

27 (g) A sentence to state prison for a determinate term for which
28 only one term is specified, is a sentence to state prison under this
29 section.

30 (h) (1) Except as provided in paragraph (3), a felony punishable
31 pursuant to this subdivision where the term is not specified in the
32 underlying offense shall be punishable by a term of imprisonment
33 in a county jail for 16 months, or two or three years.

34 (2) Except as provided in paragraph (3), a felony punishable
35 pursuant to this subdivision shall be punishable by imprisonment
36 in a county jail for the term described in the underlying offense.

37 (3) Notwithstanding paragraphs (1) and (2), where the defendant
38 (A) has a prior or current felony conviction for a serious felony
39 described in subdivision (c) of Section 1192.7 or a prior or current
40 conviction for a violent felony described in subdivision (c) of

1 Section 667.5, (B) has a prior felony conviction in another
2 jurisdiction for an offense that has all the elements of a serious
3 felony described in subdivision (c) of Section 1192.7 or a violent
4 felony described in subdivision (c) of Section 667.5, (C) is required
5 to register as a sex offender pursuant to Chapter 5.5 (commencing
6 with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime
7 and as part of the sentence an enhancement pursuant to Section
8 186.11 is imposed, an executed sentence for a felony punishable
9 pursuant to this subdivision shall be served in state prison.

10 (4) Nothing in this subdivision shall be construed to prevent
11 other dispositions authorized by law, including pretrial diversion,
12 deferred entry of judgment, or an order granting probation pursuant
13 to Section 1203.1.

14 (5) (A) Unless the court finds that, in the interests of justice, it
15 is not appropriate in a particular case, the court, when imposing a
16 sentence pursuant to paragraph (1) or (2), shall suspend execution
17 of a concluding portion of the term for a period selected at the
18 court's discretion.

19 (B) The portion of a defendant's sentenced term that is
20 suspended pursuant to this paragraph shall be known as mandatory
21 supervision, and, unless otherwise ordered by the court, shall
22 commence upon release from physical custody or an alternative
23 custody program, whichever is later. During the period of
24 mandatory supervision, the defendant shall be supervised by the
25 county probation officer in accordance with the terms, conditions,
26 and procedures generally applicable to persons placed on probation,
27 for the remaining unserved portion of the sentence imposed by the
28 court. The period of supervision shall be mandatory, and may not
29 be earlier terminated except by court order. ~~Any~~ A proceeding to
30 revoke or modify mandatory supervision under this subparagraph
31 shall be conducted pursuant to either subdivisions (a) and (b) of
32 Section 1203.2 or Section 1203.3. During the period when the
33 defendant is under that supervision, unless in actual custody related
34 to the sentence imposed by the court, the defendant shall be entitled
35 to only actual time credit against the term of imprisonment imposed
36 by the court. ~~Any time period which is suspended because a person~~
37 ~~has absconded shall not be credited toward the period of~~
38 ~~supervision. The period of time during any revocation, summary~~
39 ~~or otherwise, shall not be credited toward any period of~~
40 ~~supervision, provided however, that the defendant shall not remain~~

1 *in custody for a period longer than the term of supervision*
2 *authorized under this section.*

3 (6) The sentencing changes made by the act that added this
4 subdivision shall be applied prospectively to ~~any~~ a person
5 sentenced on or after October 1, 2011.

6 (7) The sentencing changes made to paragraph (5) by the act
7 that added this paragraph shall become effective and operative on
8 January 1, 2015, and shall be applied prospectively to ~~any~~ a person
9 sentenced on or after January 1, 2015.

10 (i) This section shall remain in effect only until January 1, ~~2017,~~
11 ~~2020,~~ and as of that date is repealed, unless a later enacted statute,
12 that is enacted before that date, deletes or extends that date.

13 SEC. 2. Section 1170 of the Penal Code, as amended by Section
14 2 of Chapter 378 of the Statutes of 2015, is amended to read:

15 1170. (a) (1) The Legislature finds and declares that the
16 purpose of imprisonment for crime is punishment. This purpose
17 is best served by terms proportionate to the seriousness of the
18 offense with provision for uniformity in the sentences of offenders
19 committing the same offense under similar circumstances. The
20 Legislature further finds and declares that the elimination of
21 disparity and the provision of uniformity of sentences ~~can best be~~
22 *is best* achieved by determinate sentences fixed by statute in
23 proportion to the seriousness of the offense as determined by the
24 Legislature to be imposed by the court with specified discretion.

25 (2) Notwithstanding paragraph (1), the Legislature further finds
26 and declares that programs should be available for inmates,
27 including, but not limited to, educational programs, that are
28 designed to prepare nonviolent felony offenders for successful
29 reentry into the community. The Legislature encourages the
30 development of policies and programs designed to educate and
31 rehabilitate nonviolent felony offenders. In implementing this
32 section, the Department of Corrections and Rehabilitation is
33 encouraged to give priority enrollment in programs to promote
34 successful return to the community to an inmate with a short
35 remaining term of commitment and a release date that would allow
36 him or her adequate time to complete the program.

37 (3) In ~~any~~ a case in which the punishment prescribed by statute
38 for a person convicted of a public offense is a term of imprisonment
39 in the state prison, or a term pursuant to subdivision (h), of any
40 specification of three time periods, the court shall sentence the

1 defendant to one of the terms of imprisonment specified unless
2 the convicted person is given any other disposition provided by
3 law, including a fine, jail, probation, or the suspension of
4 imposition or execution of sentence or is sentenced pursuant to
5 subdivision (b) of Section 1168 because he or she had committed
6 his or her crime prior to July 1, 1977. In sentencing the convicted
7 person, the court shall apply the sentencing rules of the Judicial
8 Council. The court, unless it determines that there are
9 circumstances in mitigation of the punishment prescribed, shall
10 also impose any other term that it is required by law to impose as
11 an additional term. Nothing in this article shall affect ~~any provision~~
12 ~~of a law that imposes the death penalty, that authorizes or restricts~~
13 ~~the granting of probation or suspending the execution or imposition~~
14 ~~of sentence, or expressly provides for imprisonment in the state~~
15 ~~prison for life, except as provided in paragraph (2) of subdivision~~
16 ~~(d). In any a case in which the amount of preimprisonment credit~~
17 ~~under Section 2900.5 or any other provision of law is equal to or~~
18 ~~exceeds any a sentence imposed pursuant to this chapter, except~~
19 ~~for a remaining portion of mandatory supervision imposed pursuant~~
20 ~~to subparagraph (B) of paragraph (5) of subdivision (h), the entire~~
21 ~~sentence shall be deemed to have been served, except for the~~
22 ~~remaining period of mandatory supervision, and the defendant~~
23 ~~shall not be actually delivered to the custody of the secretary or~~
24 ~~the county correctional administrator. The court shall advise the~~
25 ~~defendant that he or she shall serve an applicable period of parole,~~
26 ~~postrelease community supervision, or mandatory supervision and~~
27 ~~order the defendant to report to the parole or probation office~~
28 ~~closest to the defendant's last legal residence, unless the in-custody~~
29 ~~credits equal the total sentence, including both confinement time~~
30 ~~and the period of parole, postrelease community supervision, or~~
31 ~~mandatory supervision. The sentence shall be deemed a separate~~
32 ~~prior prison term or a sentence of imprisonment in a county jail~~
33 ~~under subdivision (h) for purposes of Section 667.5, and a copy~~
34 ~~of the judgment and other necessary documentation shall be~~
35 ~~forwarded to the secretary.~~

36 (b) When a judgment of imprisonment is to be imposed and the
37 statute specifies three possible terms, the court shall order
38 imposition of the middle term, unless there are circumstances in
39 aggravation or mitigation of the crime. At least four days prior to
40 the time set for imposition of judgment, either party or the victim,

1 or the family of the victim if the victim is deceased, may submit
2 a statement in aggravation or mitigation to dispute facts in the
3 record or the probation officer's report, or to present additional
4 facts. In determining whether there are circumstances that justify
5 imposition of the upper or lower term, the court may consider the
6 record in the case, the probation officer's report, other reports,
7 including reports received pursuant to Section 1203.03, and
8 statements in aggravation or mitigation submitted by the
9 prosecution, the defendant, or the victim, or the family of the victim
10 if the victim is deceased, and any further evidence introduced at
11 the sentencing hearing. The court shall set forth on the record the
12 facts and reasons for imposing the upper or lower term. The court
13 may not impose an upper term by using the fact of ~~any~~ *an*
14 enhancement upon which sentence is imposed under any ~~provision~~
15 of law. A term of imprisonment shall not be specified if imposition
16 of sentence is suspended.

17 (c) The court shall state the reasons for its sentence choice on
18 the record at the time of sentencing. The court shall also inform
19 the defendant that as part of the sentence after expiration of the
20 term he or she may be on parole for a period as provided in Section
21 3000 or 3000.08 or postrelease community supervision for a period
22 as provided in Section 3451.

23 (d) (1) When a defendant subject to this section or subdivision
24 (b) of Section 1168 has been sentenced to be imprisoned in the
25 state prison or county jail pursuant to subdivision (h) and has been
26 committed to the custody of the secretary or the county correctional
27 administrator, the court may, within 120 days of the date of
28 commitment on its own motion, or at any time upon the
29 recommendation of the secretary or the Board of Parole Hearings
30 in the case of state prison inmates, or the county correctional
31 administrator in the case of county jail inmates, recall the sentence
32 and commitment previously ordered and resentence the defendant
33 in the same manner as if he or she had not previously been
34 sentenced, provided the new sentence, if any, is no greater than
35 the initial sentence. The court resentencing under this subdivision
36 shall apply the sentencing rules of the Judicial Council so as to
37 eliminate disparity of sentences and to promote uniformity of
38 sentencing. Credit shall be given for time served.

39 (2) (A) (i) When a defendant who was under 18 years of age
40 at the time of the commission of the offense for which the

1 defendant was sentenced to imprisonment for life without the
2 possibility of parole has served at least 15 years of that sentence,
3 the defendant may submit to the sentencing court a petition for
4 recall and resentencing.

5 (ii) Notwithstanding clause (i), this paragraph shall not apply
6 to ~~defendants~~ a defendant sentenced to life without parole for an
7 offense where the defendant tortured, as described in Section 206,
8 his or her ~~victim~~ victim, or the victim was a public safety official,
9 including any law enforcement personnel mentioned in Chapter
10 4.5 (commencing with Section 830) of Title 3, or any firefighter
11 as described in Section 245.1, as well as any other officer in any
12 segment of law enforcement who is employed by the federal
13 government, the state, or any of its political subdivisions.

14 (B) The defendant shall file the original petition with the
15 sentencing court. A copy of the petition shall be served on the
16 agency that prosecuted the case. The petition shall include the
17 defendant's statement that he or she was under 18 years of age at
18 the time of the crime and was sentenced to life in prison without
19 the possibility of parole, the defendant's statement describing his
20 or her remorse and work towards rehabilitation, and the defendant's
21 statement that one of the following is true:

22 (i) The defendant was convicted pursuant to felony murder or
23 aiding and abetting murder provisions of law.

24 (ii) The defendant does not have juvenile felony adjudications
25 for assault or other felony crimes with a significant potential for
26 personal harm to victims prior to the offense for which the sentence
27 is being considered for recall.

28 (iii) The defendant committed the offense with at least one adult
29 codefendant.

30 (iv) The defendant has performed acts that tend to indicate
31 rehabilitation or the potential for rehabilitation, including, but not
32 limited to, availing himself or herself of rehabilitative, educational,
33 or vocational programs, if those programs have been available at
34 his or her classification level and facility, using self-study for
35 self-improvement, or showing evidence of remorse.

36 (C) If any of the information required in subparagraph (B) is
37 missing from the petition, or if proof of service on the prosecuting
38 agency is not provided, the court shall return the petition to the
39 defendant and advise the defendant that the matter cannot be
40 considered without the missing information.

1 (D) A reply to the petition, if any, shall be filed with the court
2 within 60 days of the date on which the prosecuting agency was
3 served with the petition, unless a continuance is granted for good
4 cause.

5 (E) If the court finds by a preponderance of the evidence that
6 the statements in the petition are true, the court shall hold a hearing
7 to consider whether to recall the sentence and commitment
8 previously ordered and to resentence the defendant in the same
9 manner as if the defendant had not previously been sentenced,
10 provided that the new sentence, if any, is not greater than the initial
11 sentence. Victims, or victim family members if the victim is
12 deceased, shall retain ~~the~~ *their* rights to participate in the hearing.

13 (F) The factors that the court may consider when determining
14 whether to recall and resentence include, but are not limited to,
15 the following:

16 (i) The defendant was convicted pursuant to felony murder or
17 aiding and abetting murder provisions of law.

18 (ii) The defendant does not have juvenile felony adjudications
19 for assault or other felony crimes with a significant potential for
20 personal harm to victims prior to the offense for which the sentence
21 is being considered for recall.

22 (iii) The defendant committed the offense with at least one adult
23 codefendant.

24 (iv) Prior to the offense for which the sentence is being
25 considered for recall, the defendant had insufficient adult support
26 or supervision and had suffered from psychological or physical
27 trauma, or significant stress.

28 (v) The defendant suffers from cognitive limitations due to
29 mental illness, developmental disabilities, or other factors that did
30 not constitute a defense, but influenced the defendant's
31 involvement in the offense.

32 (vi) The defendant has performed acts that tend to indicate
33 rehabilitation or the potential for rehabilitation, including, but not
34 limited to, availing himself or herself of rehabilitative, educational,
35 or vocational programs, if those programs have been available at
36 his or her classification level and facility, using self-study for
37 self-improvement, or showing evidence of remorse.

38 (vii) The defendant has maintained family ties or connections
39 with others through letter writing, calls, or visits, or has eliminated

1 contact with individuals outside of prison who are currently
2 involved with crime.

3 (viii) The defendant has had no disciplinary actions for violent
4 activities in the last five years in which the defendant was
5 determined to be the aggressor.

6 (G) The court shall have the discretion to recall the sentence
7 and commitment previously ordered and to resentence the
8 defendant in the same manner as if the defendant had not
9 previously been sentenced, provided that the new sentence, if any,
10 is not greater than the initial sentence. The discretion of the court
11 shall be exercised in consideration of the criteria in subparagraph
12 (B). Victims, or victim family members if the victim is deceased,
13 shall be notified of the resentencing hearing and shall retain their
14 rights to participate in the hearing.

15 (H) If the sentence is not recalled, the defendant may submit
16 another petition for recall and resentencing to the sentencing court
17 when the defendant has been committed to the custody of the
18 department for at least 20 years. If recall and resentencing is not
19 granted under that petition, the defendant may file another petition
20 after having served 24 years. The final petition may be submitted,
21 and the response to that petition shall be determined, during the
22 25th year of the defendant's sentence.

23 (I) In addition to the criteria in subparagraph (F), the court may
24 consider any other criteria that the court deems relevant to its
25 decision, so long as the court identifies them on the record,
26 provides a statement of reasons for adopting them, and states why
27 the defendant does or does not satisfy the criteria.

28 (J) This subdivision shall have retroactive application.

29 (e) (1) Notwithstanding any other law and consistent with
30 paragraph (1) of subdivision (a), if the secretary or the Board of
31 Parole Hearings or both determine that a prisoner satisfies the
32 criteria set forth in paragraph (2), the secretary or the board may
33 recommend to the court that the prisoner's sentence be recalled.

34 (2) The court shall have the discretion to resentence or recall if
35 the court finds that the facts described in subparagraphs (A) and
36 (B) or subparagraphs (B) and (C) exist:

37 (A) The prisoner is terminally ill with an incurable condition
38 caused by an illness or disease that would produce death within
39 six months, as determined by a physician employed by the
40 department.

1 (B) The conditions under which the prisoner would be released
2 or receive treatment do not pose a threat to public safety.

3 (C) (i) The prisoner is permanently medically incapacitated
4 with a medical condition that renders him or her permanently
5 unable to perform activities of basic daily living, and results in the
6 prisoner requiring 24-hour total care, including, but not limited to,
7 coma, persistent vegetative state, brain death,
8 ventilator-dependency, *or* loss of control of muscular or
9 neurological function, and that incapacitation did not exist at the
10 time of the original sentencing.

11 ~~The~~

12 (ii) *The* Board of Parole Hearings shall make findings pursuant
13 to this subdivision before making a recommendation for resentence
14 or recall to the court. This subdivision does not apply to a prisoner
15 sentenced to death or a term of life without the possibility of parole.

16 (3) Within 10 days of receipt of a positive recommendation by
17 the secretary or the board, the court shall hold a hearing to consider
18 whether the prisoner's sentence should be recalled.

19 (4) ~~Any~~ A physician employed by the department who
20 determines that a prisoner has six months or less to live shall notify
21 the chief medical officer of the prognosis. If the chief medical
22 officer concurs with the prognosis, he or she shall notify the
23 warden. Within 48 hours of receiving notification, the warden or
24 the warden's representative shall notify the prisoner of the recall
25 and resentencing procedures, and shall arrange for the prisoner to
26 designate a family member or other outside agent to be notified
27 as to the prisoner's medical condition and prognosis, and as to the
28 recall and resentencing procedures. If the inmate is deemed
29 mentally unfit, the warden or the warden's representative shall
30 contact the inmate's emergency contact and provide the information
31 described in paragraph (2).

32 (5) The warden or the warden's representative shall provide the
33 prisoner and his or her family member, agent, or emergency
34 contact, as described in paragraph (4), updated information
35 throughout the recall and resentencing process with regard to the
36 prisoner's medical condition and the status of the prisoner's recall
37 and resentencing proceedings.

38 (6) Notwithstanding any other ~~provisions~~ *provision* of this
39 section, the prisoner or his or her family member or designee may
40 independently request consideration for recall and resentencing

1 by contacting the chief medical officer at the prison or the
2 secretary. Upon receipt of the request, the chief medical officer
3 and the warden or the warden's representative shall follow the
4 procedures described in paragraph (4). If the secretary determines
5 that the prisoner satisfies the criteria set forth in paragraph (2), the
6 secretary or board may recommend to the court that the prisoner's
7 sentence be recalled. The secretary shall submit a recommendation
8 for release within 30 days in the case of inmates sentenced to
9 determinate terms and, in the case of inmates sentenced to
10 indeterminate terms, the secretary shall make a recommendation
11 to the Board of Parole Hearings with respect to the inmates who
12 have applied under this section. The board shall consider this
13 information and make an independent judgment pursuant to
14 paragraph (2) and make findings related thereto before rejecting
15 the request or making a recommendation to the court. This action
16 shall be taken at the next lawfully noticed board meeting.

17 (7) ~~Any~~ A recommendation for recall submitted to the court by
18 the secretary or the Board of Parole Hearings shall include one or
19 more medical evaluations, a postrelease plan, and findings pursuant
20 to paragraph (2).

21 (8) If possible, the matter shall be heard before the same judge
22 of the court who sentenced the prisoner.

23 (9) If the court grants the recall and resentencing application,
24 the prisoner shall be released by the department within 48 hours
25 of receipt of the court's order, unless a longer time period is agreed
26 to by the inmate. At the time of release, the warden or the warden's
27 representative shall ensure that the prisoner has ~~each of the~~
28 ~~following~~ in his or her ~~possession~~: *possession*, a discharge medical
29 summary, full medical records, state identification, parole or
30 postrelease community supervision medications, and all property
31 belonging to the prisoner. After discharge, any additional records
32 shall be sent to the prisoner's forwarding address.

33 (10) The secretary shall issue a directive to medical and
34 correctional staff employed by the department that details the
35 guidelines and procedures for initiating a recall and resentencing
36 procedure. The directive shall clearly state that ~~any~~ a prisoner who
37 is given a prognosis of six months or less to live is eligible for
38 recall and resentencing consideration, and that recall and
39 resentencing procedures shall be initiated upon that prognosis.

1 (11) The provisions of this subdivision shall be available to an
2 inmate who is sentenced to a county jail pursuant to subdivision
3 (h). For purposes of those inmates, “secretary” or “warden” shall
4 mean the county correctional administrator and “chief medical
5 officer” shall mean a physician designated by the county
6 correctional administrator for this purpose.

7 (f) Notwithstanding any other provision of this section, for
8 purposes of paragraph (3) of subdivision (h), ~~any~~ *an* allegation
9 that a defendant is eligible for state prison due to a prior or current
10 conviction, sentence enhancement, or because he or she is required
11 to register as a sex offender shall not be subject to dismissal
12 pursuant to Section 1385.

13 (g) A sentence to state prison for a determinate term for which
14 only one term is specified, is a sentence to state prison under this
15 section.

16 (h) (1) Except as provided in paragraph (3), a felony punishable
17 pursuant to this subdivision where the term is not specified in the
18 underlying offense shall be punishable by a term of imprisonment
19 in a county jail for 16 months, or two or three years.

20 (2) Except as provided in paragraph (3), a felony punishable
21 pursuant to this subdivision shall be punishable by imprisonment
22 in a county jail for the term described in the underlying offense.

23 (3) Notwithstanding paragraphs (1) and (2), where the defendant
24 (A) has a prior or current felony conviction for a serious felony
25 described in subdivision (c) of Section 1192.7 or a prior or current
26 conviction for a violent felony described in subdivision (c) of
27 Section 667.5, (B) has a prior felony conviction in another
28 jurisdiction for an offense that has all the elements of a serious
29 felony described in subdivision (c) of Section 1192.7 or a violent
30 felony described in subdivision (c) of Section 667.5, (C) is required
31 to register as a sex offender pursuant to Chapter 5.5 (commencing
32 with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime
33 and as part of the sentence an enhancement pursuant to Section
34 186.11 is imposed, an executed sentence for a felony punishable
35 pursuant to this subdivision shall be served in state prison.

36 (4) Nothing in this subdivision shall be construed to prevent
37 other dispositions authorized by law, including pretrial diversion,
38 deferred entry of judgment, or an order granting probation pursuant
39 to Section 1203.1.

1 (5) (A) Unless the court finds, in the interest of justice, that it
2 is not appropriate in a particular case, the court, when imposing a
3 sentence pursuant to paragraph (1) or (2), shall suspend execution
4 of a concluding portion of the term for a period selected at the
5 court's discretion.

6 (B) The portion of a defendant's sentenced term that is
7 suspended pursuant to this paragraph shall be known as mandatory
8 supervision, and, unless otherwise ordered by the court, shall
9 commence upon release from physical custody or an alternative
10 custody program, whichever is later. During the period of
11 mandatory supervision, the defendant shall be supervised by the
12 county probation officer in accordance with the terms, conditions,
13 and procedures generally applicable to persons placed on probation,
14 for the remaining unserved portion of the sentence imposed by the
15 court. The period of supervision shall be mandatory, and may not
16 be earlier terminated except by court order. ~~Any~~ A proceeding to
17 revoke or modify mandatory supervision under this subparagraph
18 shall be conducted pursuant to either subdivisions (a) and (b) of
19 Section 1203.2 or Section 1203.3. During the period when the
20 defendant is under that supervision, unless in actual custody related
21 to the sentence imposed by the court, the defendant shall be entitled
22 to only actual time credit against the term of imprisonment imposed
23 by the court. ~~Any time period which is suspended because a person~~
24 ~~has absconded shall not be credited toward the period of~~
25 ~~supervision. The period of time during any revocation, summary~~
26 ~~or otherwise, shall not be credited toward any period of~~
27 ~~supervision, provided however, that the defendant shall not remain~~
28 ~~in custody for a period longer than the term of supervision~~
29 ~~authorized under this section.~~

30 (6) The sentencing changes made by the act that added this
31 subdivision shall be applied prospectively to ~~any~~ a person
32 sentenced on or after October 1, 2011.

33 (7) The sentencing changes made to paragraph (5) by the act
34 that added this paragraph shall become effective and operative on
35 January 1, 2015, and shall be applied prospectively to ~~any~~ a person
36 sentenced on or after January 1, 2015.

37 (i) This section shall become operative on January 1, ~~2017.~~
38 ~~2020.~~

39 SEC. 3. Section 1203.2 of the Penal Code is amended to read:

1 1203.2. (a) At any time during the period of supervision of a
2 person (1) released on probation under the care of a probation
3 officer pursuant to this chapter, (2) released on conditional sentence
4 or summary probation not under the care of a probation officer,
5 (3) placed on mandatory supervision pursuant to subparagraph (B)
6 of paragraph (5) of subdivision (h) of Section 1170, (4) subject to
7 revocation of postrelease community supervision pursuant to
8 Section 3455, or (5) subject to revocation of parole supervision
9 pursuant to Section 3000.08, if any probation officer, parole officer,
10 or peace officer has probable cause to believe that the supervised
11 person is violating any term or condition of his or her supervision,
12 the officer may, without warrant or other process and at any time
13 until the final disposition of the case, rearrest the supervised person
14 and bring him or her before the court or the court may, in its
15 discretion, issue a warrant for his or her rearrest. Notwithstanding
16 Section 3056, and unless the supervised person is otherwise serving
17 a period of flash incarceration, whenever a supervised person who
18 is subject to this section is arrested, with or without a warrant or
19 the filing of a petition for revocation as described in subdivision
20 (b), the court may order the release of a supervised person from
21 custody under any terms and conditions the court deems
22 appropriate. Upon rearrest, or upon the issuance of a warrant for
23 rearrest, the court may revoke and terminate the supervision of the
24 person if the interests of justice so require and the court, in its
25 judgment, has reason to believe from the report of the probation
26 or parole officer or otherwise that the person has violated any of
27 the conditions of his or her supervision, has become abandoned
28 to improper associates or a vicious life, or has subsequently
29 committed other offenses, regardless of whether he or she has been
30 prosecuted for those offenses. However, the court shall not
31 terminate parole pursuant to this section. Supervision shall not be
32 revoked for failure of a person to make restitution imposed as a
33 condition of supervision unless the court determines that the
34 defendant has willfully failed to pay and has the ability to pay.
35 Restitution shall be consistent with a person's ability to pay. ~~The~~
36 ~~revocation, summary or otherwise, shall serve to toll the running~~
37 ~~of the period of supervision. The period of time during any~~
38 ~~revocation, summary or otherwise, shall not be credited toward~~
39 *any period of supervision.*

1 (b) (1) Upon its own motion or upon the petition of the
2 supervised person, the probation or parole officer, or the district
3 attorney, the court may modify, revoke, or terminate supervision
4 of the person pursuant to this subdivision, except that the court
5 shall not terminate parole pursuant to this section. The court in the
6 county in which the person is supervised has jurisdiction to hear
7 the motion or petition, or for those on parole, either the court in
8 the county of supervision or the court in the county in which the
9 alleged violation of supervision occurred. A person supervised on
10 parole or postrelease community supervision pursuant to Section
11 3455 may not petition the court pursuant to this section for early
12 release from supervision, and a petition under this section shall
13 not be filed solely for the purpose of modifying parole. This section
14 does not prohibit the court in the county in which the person is
15 supervised or in which the alleged violation of supervision occurred
16 from modifying a person's parole when acting on the court's own
17 motion or a petition to revoke parole. The court shall give notice
18 of its motion, and the probation or parole officer or the district
19 attorney shall give notice of his or her petition to the supervised
20 person, his or her attorney of record, and the district attorney or
21 the probation or parole officer, as the case may be. The supervised
22 person shall give notice of his or her petition to the probation or
23 parole officer and notice of any motion or petition shall be given
24 to the district attorney in all cases. The court shall refer its motion
25 or the petition to the probation or parole officer. After the receipt
26 of a written report from the probation or parole officer, the court
27 shall read and consider the report and either its motion or the
28 petition and may modify, revoke, or terminate the supervision of
29 the supervised person upon the grounds set forth in subdivision
30 (a) if the interests of justice so require.

31 (2) The notice required by this subdivision may be given to the
32 supervised person upon his or her first court appearance in the
33 proceeding. Upon the agreement by the supervised person in
34 writing to the specific terms of a modification or termination of a
35 specific term of supervision, any requirement that the supervised
36 person make a personal appearance in court for the purpose of a
37 modification or termination shall be waived. Prior to the
38 modification or termination and waiver of appearance, the
39 supervised person shall be informed of his or her right to consult
40 with counsel, and if indigent the right to secure court appointed

1 counsel. If the supervised person waives his or her right to counsel
2 a written waiver shall be required. If the supervised person consults
3 with counsel and thereafter agrees to a modification, revocation,
4 or termination of the term of supervision and waiver of personal
5 appearance, the agreement shall be signed by counsel showing
6 approval for the modification or termination and waiver.

7 (c) Upon any revocation and termination of probation the court
8 may, if the sentence has been suspended, pronounce judgment for
9 any time within the longest period for which the person might have
10 been sentenced. However, if the judgment has been pronounced
11 and the execution thereof has been suspended, the court may revoke
12 the suspension and order that the judgment shall be in full force
13 and effect. In either case, the person shall be delivered over to the
14 proper officer to serve his or her sentence, less any credits herein
15 provided for.

16 (d) In any case of revocation and termination of probation,
17 including, but not limited to, cases in which the judgment has been
18 pronounced and the execution thereof has been suspended, upon
19 the revocation and termination, the court may, in lieu of any other
20 sentence, commit the person to the Department of Corrections and
21 Rehabilitation, Division of Juvenile Facilities if he or she is
22 otherwise eligible for that commitment.

23 (e) If probation has been revoked before the judgment has been
24 pronounced, the order revoking probation may be set aside for
25 good cause upon motion made before pronouncement of judgment.
26 If probation has been revoked after the judgment has been
27 pronounced, the judgment and the order which revoked the
28 probation may be set aside for good cause within 30 days after the
29 court has notice that the execution of the sentence has commenced.
30 If an order setting aside the judgment, the revocation of probation,
31 or both is made after the expiration of the probationary period, the
32 court may again place the person on probation for that period and
33 with those terms and conditions as it could have done immediately
34 following conviction.

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

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

38 (2) "Probation officer" means a probation officer as described
39 in Section 1203 or an officer of the agency designated by the board

1 of supervisors of a county to implement postrelease community
2 supervision pursuant to Section 3451.

3 (3) “Supervised person” means a person who satisfies any of
4 the following:

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

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

9 (C) He or she is subject to mandatory supervision pursuant to
10 subparagraph (B) of paragraph (5) of subdivision (h) of Section
11 1170.

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

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

16 (g) This section does not affect the authority of the supervising
17 agency to impose intermediate sanctions, including flash
18 incarceration, to persons supervised on parole pursuant to Section
19 3000.8 or postrelease community supervision pursuant to Part 3
20 (commencing with Section 3450) of Title 2.05.

21 SEC. 4. Section 3456 of the Penal Code is amended to read:

22 3456. (a) The county agency responsible for postrelease
23 supervision, as established by the county board of supervisors
24 pursuant to subdivision (a) of Section 3451, shall maintain
25 postrelease supervision over a person under postrelease supervision
26 pursuant to this title until one of the following events occurs:

27 (1) The person has been subject to postrelease supervision
28 pursuant to this title for three years at which time the offender shall
29 be immediately discharged from postrelease supervision.

30 ~~(2) Any person on postrelease supervision for six consecutive~~
31 ~~months with no violations of his or her conditions of postrelease~~
32 ~~supervision that result in a custodial sanction may be considered~~
33 ~~for immediate discharge by the supervising county.~~

34 ~~(3)~~

35 (2) The person who has been on postrelease supervision
36 continuously for one year with no violations of his or her conditions
37 of postrelease supervision that result in a custodial sanction shall
38 be discharged from supervision within 30 days.

39 ~~(4)~~

1 (3) Jurisdiction over the person has been terminated by operation
2 of law.

3 ~~(5)~~

4 (4) Jurisdiction is transferred to another supervising county
5 agency.

6 ~~(6)~~

7 (5) Jurisdiction is terminated by the revocation hearing officer
8 upon a petition to revoke and terminate supervision by the
9 supervising county agency.

10 ~~(b) Time during which a person on postrelease supervision is~~
11 ~~suspended because the person has absconded shall not be credited~~
12 ~~toward any period of postrelease supervision.~~

13 *(b) A person on postrelease supervision for six consecutive*
14 *months with no violations of his or her conditions of postrelease*
15 *supervision that result in a custodial sanction may be considered*
16 *for immediate discharge by the supervising county.*

17 *(c) The period of time during any revocation, summary or*
18 *otherwise, shall not be credited toward any period of supervision,*
19 *provided however, that the person subject to postrelease*
20 *supervision shall not remain in custody for a period longer than*
21 *the term of supervision authorized under this section.*