

Introduced by Senator Hancock

February 13, 2015

An act to amend Section 3041 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

SB 230, as introduced, Hancock. Sentencing: parole.

Existing law requires the Board of Parole Hearings to meet with each inmate during the 6th year before the inmate's minimum eligible parole release date to review and document the inmate's activities and conduct. Under existing law, the board must issue its findings and recommendations to the inmate in writing, within 30 days following the consultation.

This bill would make technical, nonsubstantive changes to that provision.

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 3041 of the Penal Code is amended to
2 read:
3 3041. (a) In the case of any inmate sentenced pursuant to any
4 law, other than Chapter 4.5 (commencing with Section 1170) of
5 Title 7 of Part 2, the Board of Parole Hearings shall meet with
6 each inmate during the sixth year ~~prior to~~ *before* the inmate's
7 minimum eligible parole release date for the purposes of reviewing
8 and documenting the inmate's activities and conduct pertinent to
9 both parole eligibility and to the granting or withholding of
10 postconviction credit. During this consultation, the board shall

1 provide the inmate information about the parole hearing process,
2 legal factors relevant to his or her suitability or unsuitability for
3 parole, and individualized recommendations for the inmate
4 regarding his or her work assignments, rehabilitative programs,
5 and institutional behavior. Within 30 days following the
6 consultation, the board shall issue its positive and negative findings
7 and recommendations to the inmate in writing. One year ~~prior to~~
8 *before* the inmate's minimum eligible parole release date a panel
9 of two or more commissioners or deputy commissioners shall again
10 meet with the inmate and shall normally set a parole release date
11 as provided in Section 3041.5. No more than one member of the
12 panel shall be a deputy commissioner. In the event of a tie vote,
13 the matter shall be referred for an en banc review of the record
14 that was before the panel that rendered the tie vote. Upon en banc
15 review, the board shall vote to either grant or deny parole and
16 render a statement of decision. The en banc review shall be
17 conducted pursuant to subdivision (e). The release date shall be
18 set in a manner that will provide uniform terms for offenses of
19 similar gravity and magnitude with respect to their threat to the
20 public, and that will comply with the sentencing rules that the
21 Judicial Council may issue and any sentencing information relevant
22 to the setting of parole release dates. The board shall establish
23 criteria for the setting of parole release dates and in doing so shall
24 consider the number of victims of the crime for which the inmate
25 was sentenced and other factors in mitigation or aggravation of
26 the crime. At least one commissioner of the panel shall have been
27 present at the last preceding meeting, unless it is not feasible to
28 do so or where the last preceding meeting was the initial meeting.
29 Any person on the hearing panel may request review of any
30 decision regarding parole for an en banc hearing by the board. In
31 case of a review, a majority vote in favor of parole by the board
32 members participating in an en banc review is required to grant
33 parole to any inmate.

34 (b) The panel or the board, sitting en banc, shall set a release
35 date unless it determines that the gravity of the current convicted
36 offense or offenses, or the timing and gravity of current or past
37 convicted offense or offenses, is such that consideration of the
38 public safety requires a more lengthy period of incarceration for
39 this individual, and that a parole date, therefore, cannot be fixed
40 at this meeting. After the effective date of this subdivision, any

1 decision of the parole panel finding an inmate suitable for parole
2 shall become final within 120 days of the date of the hearing.
3 During that period, the board may review the panel's decision.
4 The panel's decision shall become final pursuant to this subdivision
5 unless the board finds that the panel made an error of law, or that
6 the panel's decision was based on an error of fact, or that new
7 information should be presented to the board, any of which when
8 corrected or considered by the board has a substantial likelihood
9 of resulting in a substantially different decision upon a rehearing.
10 In making this determination, the board shall consult with the
11 commissioners who conducted the parole consideration hearing.
12 No decision of the parole panel shall be disapproved and referred
13 for rehearing except by a majority vote of the board, sitting en
14 banc, following a public meeting.

15 (c) For the purpose of reviewing the suitability for parole of
16 those inmates eligible for parole under prior law at a date earlier
17 than that calculated under Section 1170.2, the board shall appoint
18 panels of at least two persons to meet annually with each inmate
19 until the time the ~~person~~ *inmate* is released pursuant to proceedings
20 or reaches the expiration of his or her term as calculated under
21 Section 1170.2.

22 (d) It is the intent of the Legislature that, during times when
23 there is no backlog of inmates awaiting parole hearings, life parole
24 consideration hearings, or life rescission hearings, hearings will
25 be conducted by a panel of three or more members, the majority
26 of whom shall be commissioners. The board shall report monthly
27 on the number of cases where an inmate has not received a
28 completed initial or subsequent parole consideration hearing within
29 30 days of the hearing date required by subdivision (a) of Section
30 3041.5 or paragraph (2) of subdivision (b) of Section 3041.5, unless
31 the inmate has waived the right to those timeframes. That report
32 shall be considered the backlog of cases for purposes of this
33 section, and shall include information on the progress toward
34 eliminating the backlog, and on the number of inmates who have
35 waived their right to the above timeframes. The report shall be
36 made public at a regularly scheduled meeting of the board and a
37 written report shall be made available to the public and transmitted
38 to the Legislature quarterly, *in compliance with Section 9795 of*
39 *the Government Code.*

- 1 (e) For purposes of this section, an en banc review by the board
2 means a review conducted by a majority of commissioners holding
3 office on the date the matter is heard by the board. An en banc
4 review shall be conducted in compliance with the following:
- 5 (1) The commissioners conducting the review shall consider
6 the entire record of the hearing that resulted in the tie vote.
 - 7 (2) The review shall be limited to the record of the hearing. The
8 record shall consist of the transcript or audiotape of the hearing,
9 written or electronically recorded statements actually considered
10 by the panel that produced the tie vote, and any other material
11 actually considered by the panel. New evidence or comments shall
12 not be considered in the en banc proceeding.
 - 13 (3) The board shall separately state reasons for its decision to
14 grant or deny parole.
 - 15 (4) A commissioner who was involved in the tie vote shall be
16 recused from consideration of the matter in the en banc review.