

AMENDED IN SENATE MARCH 24, 2015

**SENATE BILL**

**No. 230**

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**Introduced by Senator Hancock**

February 13, 2015

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~~An act to amend Section 3041 of the Penal Code, relating to parole.~~  
*An act to amend Sections 3041, 3041.1, 3041.2, 3041.5, 3041.7, 3042, 3043, 3043.1, 3043.2, 3043.25, 3046, and 3052 of the Penal Code, relating to parole.*

LEGISLATIVE COUNSEL'S DIGEST

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

*Existing law requires the Board of Parole Hearings to meet with every inmate during the 6th year before the inmate's minimum eligible parole release date to review and document the inmate's activities and conduct pertinent to parole eligibility and the granting or withholding of postconviction credit. Existing law requires a panel of 2 or more commissioners or deputy commissioners to meet with each inmate one year before the inmate's minimum eligible parole release date to set a parole release date, as specified, unless the panel determines that a parole release date cannot be fixed.*

*This bill would specify that the purpose of the meeting between the Board of Parole Hearings and an inmate during the 6th year before the inmate's minimum eligible parole date is to review and document the inmate's activities and conduct pertinent to parole eligibility. The bill would require a panel of 2 or more commissioners or deputy commissioners to meet with each inmate one year before the inmate's minimum eligible parole date in order to grant or deny parole, as specified. The bill would prohibit an inmate from being released before reaching his or her minimum eligible parole release date unless the*

*inmate is eligible for earlier release pursuant to his or her youth offender parole eligibility date.*

*Existing law authorizes the Governor to request a review of a decision by the board to grant or deny parole to an inmate up to 90 days before the inmate's scheduled release date.*

*The bill would authorize the Governor to request a review of a decision by the board to grant or deny parole at any time before the inmate's scheduled release. The bill would make conforming changes.*

~~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~~ yes.  
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) (1) In the case of any inmate sentenced pursuant to  
4     any law, other than Chapter 4.5 (commencing with Section 1170)  
5     of 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.~~ *parole eligibility.* During this consultation,  
11    the board shall provide the inmate information about the parole  
12    hearing process, legal factors relevant to his or her suitability or  
13    unsuitability for parole, and individualized recommendations for  
14    the inmate regarding his or her work assignments, rehabilitative  
15    programs, and institutional behavior. Within 30 days following  
16    the consultation, the board shall issue its positive and negative  
17    findings and recommendations to the inmate in writing. ~~One year~~  
18    ~~prior to~~

1     (2) *One year before* the inmate's minimum eligible parole  
2 ~~release date~~ a panel of two or more commissioners or deputy  
3 commissioners shall again meet with the inmate and shall normally  
4 ~~set a parole release date~~ *grant parole* as provided in Section 3041.5.  
5 No more than one member of the panel shall be a deputy  
6 commissioner. ~~In~~

7     (3) *In* the event of a tie vote, the matter shall be referred for an  
8 en banc review of the record that was before the panel that rendered  
9 the tie vote. Upon en banc review, the board shall vote to either  
10 grant or deny parole and render a statement of decision. The en  
11 banc review shall be conducted pursuant to subdivision (e). ~~The~~  
12 ~~release date shall be set in a manner that will provide uniform~~  
13 ~~terms for offenses of similar gravity and magnitude with respect~~  
14 ~~to their threat to the public, and that will comply with the~~  
15 ~~sentencing rules that the Judicial Council may issue and any~~  
16 ~~sentencing information relevant to the setting of parole release~~  
17 ~~dates. The board shall establish criteria for the setting of parole~~  
18 ~~release dates and in doing so shall consider the number of victims~~  
19 ~~of the crime for which the inmate was sentenced and other factors~~  
20 ~~in mitigation or aggravation of the crime. At~~

21     (4) *Upon a grant of parole, the inmate shall be released subject*  
22 *to all applicable review periods. However, an inmate shall not be*  
23 *released before reaching his or her minimum eligible parole date*  
24 *as set pursuant to Section 3046 unless the inmate is eligible for*  
25 *earlier release pursuant to his or her youth offender parole*  
26 *eligibility date.*

27     (5) At least one commissioner of the panel shall have been  
28 present at the last preceding meeting, unless it is not feasible to  
29 do so or where the last preceding meeting was the initial meeting.  
30 Any person on the hearing panel may request review of any  
31 decision regarding parole for an en banc hearing by the board. In  
32 case of a review, a majority vote in favor of parole by the board  
33 members participating in an en banc review is required to grant  
34 parole to any inmate.

35     (b) (1) The panel or the board, sitting en banc, shall ~~set a release~~  
36 ~~date~~ *grant parole to an inmate* unless it determines that the gravity  
37 of the current convicted offense or offenses, or the timing and  
38 gravity of current or past convicted offense or offenses, is such  
39 that consideration of the public safety requires a more lengthy  
40 period of incarceration for this individual, and that a parole date,

1 ~~therefore, cannot be fixed at this meeting. After the effective date~~  
2 ~~of this subdivision, individual.~~

3 (2) ~~After July 30, 2001,~~ any decision of the parole panel finding  
4 an inmate suitable for parole shall become final within 120 days  
5 of the date of the hearing. During that period, the board may review  
6 the panel's decision. The panel's decision shall become final  
7 pursuant to this subdivision unless the board finds that the panel  
8 made an error of law, or that the panel's decision was based on an  
9 error of fact, or that new information should be presented to the  
10 board, any of which when corrected or considered by the board  
11 has a substantial likelihood of resulting in a substantially different  
12 decision upon a rehearing. In making this determination, the board  
13 shall consult with the commissioners who conducted the parole  
14 consideration hearing. ~~No~~

15 (3) ~~A decision of the parole~~ a panel shall *not* be disapproved  
16 and referred for rehearing except by a majority vote of the board,  
17 sitting en banc, following a public meeting.

18 (c) For the purpose of reviewing the suitability for parole of  
19 those inmates eligible for parole under prior law at a date earlier  
20 than that calculated under Section 1170.2, the board shall appoint  
21 panels of at least two persons to meet annually with each inmate  
22 until the time the person is released pursuant to proceedings or  
23 reaches the expiration of his or her term as calculated under Section  
24 1170.2.

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

1 written report shall be made available to the public and transmitted  
2 to the Legislature quarterly.

3 (e) For purposes of this section, an en banc review by the board  
4 means a review conducted by a majority of commissioners holding  
5 office on the date the matter is heard by the board. An en banc  
6 review shall be conducted in compliance with the following:

7 (1) The commissioners conducting the review shall consider  
8 the entire record of the hearing that resulted in the tie vote.

9 (2) The review shall be limited to the record of the hearing. The  
10 record shall consist of the transcript or audiotape of the hearing,  
11 written or electronically recorded statements actually considered  
12 by the panel that produced the tie vote, and any other material  
13 actually considered by the panel. New evidence or comments shall  
14 not be considered in the en banc proceeding.

15 (3) The board shall separately state reasons for its decision to  
16 grant or deny parole.

17 (4) A commissioner who was involved in the tie vote shall be  
18 recused from consideration of the matter in the en banc review.

19 *SEC. 2. Section 3041.1 of the Penal Code is amended to read:*

20 3041.1. ~~Up to 90 days prior to a scheduled release date,~~ (a) Any  
21 time before an inmate's release, the Governor may request review  
22 of ~~any~~ a decision by a parole authority concerning the grant or  
23 denial of parole to any inmate in a state prison. The Governor shall  
24 state the reason or reasons for the request, and whether the request  
25 is based on a public safety concern, a concern that the gravity of  
26 current or past convicted offenses may have been given inadequate  
27 consideration, or on other factors. ~~When~~

28 (b) If a request has been made, the request shall be reviewed by  
29 a majority of commissioners specifically appointed to hear adult  
30 parole matters and who are holding office at the time. In case of  
31 a review, a vote in favor of parole by a majority of the  
32 commissioners reviewing the request shall be required to grant  
33 parole to any inmate. In carrying out any review, the board shall  
34 comply with the provisions of this chapter.

35 *SEC. 3. Section 3041.2 of the Penal Code is amended to read:*

36 3041.2. (a) During the 30 days following the granting, denial,  
37 revocation, or suspension by a ~~parole authority~~ the board of the  
38 parole of ~~a person~~ an inmate sentenced to an indeterminate prison  
39 term based upon a conviction of murder, the Governor, when  
40 reviewing the ~~authority's~~ board's decision pursuant to subdivision

1 (b) of Section 8 of Article V of the Constitution, shall review  
2 materials provided by the ~~parole authority~~ *board*.

3 (b) If the Governor decides to reverse or modify a parole  
4 decision of a ~~parole authority~~ *the board* pursuant to subdivision  
5 (b) of Section 8 of Article V of the Constitution, he or she shall  
6 send a written statement to the inmate specifying the reasons for  
7 his or her decision.

8 *SEC. 4. Section 3041.5 of the Penal Code is amended to read:*

9 3041.5. (a) At all hearings for the purpose of reviewing a  
10 ~~prisoner's an inmate's~~ parole suitability, or the setting, postponing,  
11 or rescinding of ~~parole dates~~, *parole*, with the exception of en banc  
12 review of tie votes, the following shall apply:

13 (1) At least 10 days ~~prior to~~ *before* any hearing by the Board of  
14 Parole Hearings, the ~~prisoner inmate~~ shall be permitted to review  
15 ~~his or her~~ *the* file which will be examined by the board and shall  
16 have the opportunity to enter a written response to any material  
17 contained in the file.

18 (2) The ~~prisoner inmate~~ shall be permitted to be present, to ask  
19 and answer questions, and to speak on his or her own behalf.  
20 Neither the ~~prisoner inmate~~ nor the attorney for the ~~prisoner inmate~~  
21 shall be entitled to ask questions of any person appearing at the  
22 hearing pursuant to subdivision (b) of Section 3043.

23 (3) Unless legal counsel is required by some other ~~provision of~~  
24 law, a person designated by the Department of Corrections and  
25 Rehabilitation shall be present to ensure that all facts relevant to  
26 the decision be presented, including, if necessary, contradictory  
27 assertions as to matters of fact that have not been resolved by  
28 departmental or other procedures.

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

32 (5) If the hearing is for the purpose of postponing or rescinding  
33 ~~of parole dates~~, the ~~prisoner parole~~, *the inmate* shall have *the* rights  
34 set forth in paragraphs (3) and (4) of subdivision (c) of Section  
35 2932.

36 (6) The board shall set a date to reconsider whether an inmate  
37 should be released on parole that ensures a meaningful  
38 consideration of whether the inmate is suitable for release on  
39 parole.

(b) (1) Within 10 days following any ~~meeting where a parole date has been set,~~ *decision granting parole*, the board shall send the ~~prisoner inmate~~ a written statement setting forth ~~his or her parole date,~~ *the reason or reasons for granting parole*, the conditions he or she must meet in order to be ~~released on the date set,~~ *released*, and the consequences of failure to meet those conditions.

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

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

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

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

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

(4) The board may in its discretion, after considering the views and interests of the victim, advance a hearing set pursuant to paragraph (3) to an earlier date, when a change in circumstances

1 or new information establishes a reasonable likelihood that  
2 consideration of the public and victim's safety does not require  
3 the additional period of incarceration of the ~~prisoner~~ *inmate*  
4 provided in paragraph (3).

5 ~~(5) Within 10 days of any board action resulting in the~~  
6 ~~postponement of a previously set parole date, the board shall send~~  
7 ~~the prisoner a written statement setting forth a new date and the~~  
8 ~~reason or reasons for that action and shall offer the prisoner an~~  
9 ~~opportunity for review of that action.~~

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

16 (c) The board shall conduct a parole hearing pursuant to this  
17 section as a de novo hearing. Findings made and conclusions  
18 reached in a prior parole hearing shall be considered in but shall  
19 not be deemed to be binding upon subsequent parole hearings for  
20 an inmate, but shall be subject to reconsideration based upon  
21 changed facts and circumstances. When conducting a hearing, the  
22 board shall admit the prior recorded or memorialized testimony  
23 or statement of a victim or witness, upon request of the victim or  
24 if the victim or witness has died or become unavailable. At each  
25 hearing the board shall determine the appropriate action to be taken  
26 based on the criteria set forth in ~~paragraph (3) of subdivision (a)~~  
27 *paragraph (1) of subdivision (b)* of Section 3041.

28 (d) (1) An inmate may request that the board exercise its  
29 discretion to advance a hearing set pursuant to paragraph (3) of  
30 subdivision (b) to an earlier date, by submitting a written request  
31 to the board, with notice, upon request, and a copy to the victim  
32 which shall set forth the change in circumstances or new  
33 information that establishes a reasonable likelihood that  
34 consideration of the public safety does not require the additional  
35 period of incarceration of the inmate.

36 (2) The board shall have sole jurisdiction, after considering the  
37 views and interests of the victim to determine whether to grant or  
38 deny a written request made pursuant to paragraph (1), and its  
39 decision shall be subject to review by a court or magistrate only  
40 for a manifest abuse of discretion by the board. The board shall



1 have the power to summarily deny a request that does not comply  
2 with ~~the provisions of this subdivision or that does not set forth a~~  
3 change in circumstances or new information as required in  
4 paragraph (1) that in the judgment of the board is sufficient to  
5 justify the action described in paragraph (4) of subdivision (b).

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

14 *SEC. 5. Section 3041.7 of the Penal Code is amended to read:*

15 3041.7. At any hearing for the purpose of setting, postponing,  
16 or rescinding a parole release date of ~~a prisoner~~ *an inmate* under  
17 a life sentence, the ~~prisoner inmate~~ shall be entitled to be  
18 represented by counsel and ~~the provisions of Section 3041.5 shall~~  
19 apply. The Board of Parole Hearings shall provide by rule for the  
20 invitation of the prosecutor of the county from which the ~~prisoner~~  
21 *inmate* was committed, or his *or her* representative, to represent  
22 the interests of the people at the hearing. The Board of Parole  
23 Hearings shall notify the prosecutor and the Attorney General at  
24 least 30 days ~~prior to~~ *before* the date of the hearing.

25 Notwithstanding Section 12550 of the Government Code, the  
26 prosecutor of the county from which the ~~prisoner inmate~~ was  
27 committed, or his *or her* representative, who shall not be the  
28 Attorney General, except in cases in which the Attorney General  
29 prosecuted the case at the trial level, shall be the sole representative  
30 of the interests of the people.

31 *SEC. 6. Section 3042 of the Penal Code is amended to read:*

32 3042. (a) At least 30 days before the Board of ~~Prison Terms~~  
33 *Parole Hearings* meets to review or consider the parole suitability  
34 ~~or the setting of a parole date for any prisoner of any inmate~~  
35 sentenced to a life sentence, the board shall send written notice  
36 thereof to each of the following persons: the judge of the superior  
37 court before whom the ~~prisoner inmate~~ was tried and convicted,  
38 the attorney who represented the defendant at trial, the district  
39 attorney of the county in which the offense was committed, the  
40 law enforcement agency that investigated the case, and where the

1 ~~prisoner inmate~~ was convicted of the murder of a peace officer,  
2 the law enforcement agency which had employed that peace officer  
3 at the time of the murder.

4 (b) The Board of ~~Prison Terms~~ *Parole Hearings* shall record  
5 all those hearings and transcribe recordings of those hearings within  
6 30 days of any hearing. Those transcripts, including the transcripts  
7 of all prior hearings, shall be filed and maintained in the office of  
8 the Board of ~~Prison Terms~~ *Parole Hearings* and shall be made  
9 available to the public no later than 30 days from the date of the  
10 hearing. No ~~prisoner inmate~~ shall actually be released on parole  
11 ~~prior to before~~ 60 days from the date of the hearing.

12 (c) At any hearing, the presiding hearing officer shall state his  
13 or her findings and supporting reasons on the record.

14 (d) Any statements, recommendations, or other materials  
15 considered shall be incorporated into the transcript of the hearing,  
16 unless the material is confidential in order to preserve institutional  
17 security and the security of others who might be endangered by  
18 disclosure.

19 ~~(e) This section shall not apply to any hearing held to consider~~  
20 ~~advancing a prisoner's parole date due to his or her conduct since~~  
21 ~~his or her last hearing.~~

22 ~~(f)~~

23 (e) (1) The written notice to the judge of the superior court  
24 before whom the ~~prisoner inmate~~ was tried and convicted shall be  
25 sent by United States mail.

26 (2) The judge receiving this written notice may forward to the  
27 ~~parole~~ board any unprivileged information from the trial or  
28 sentencing proceeding regarding the ~~prisoner, inmate~~, witnesses,  
29 or victims, or other relevant persons, or any other information, that  
30 is pertinent to the question of whether the ~~parole~~ board should  
31 grant parole or under what conditions parole should be granted.  
32 The judge may also, in his or her discretion, include information  
33 given to him or her by victims, witnesses, or other persons that  
34 bear on the question of the ~~prisoner's inmate's~~ suitability for parole.

35 (3) The ~~parole~~ board shall review and consider all information  
36 received from the judge or any other person and shall consider  
37 adjusting the ~~terms or~~ conditions of parole to reflect the comments  
38 or concerns raised by this information, as appropriate.

39 ~~(g)~~

1 (f) Nothing in this section shall be construed as limiting the type  
2 or content of information the judge or any other person may  
3 forward to the ~~parole~~ board for consideration under any other  
4 ~~provision of law~~.

5 ~~(h)~~

6 (g) Any person who receives notice under subdivision (a) who  
7 is authorized to forward information for consideration in a parole  
8 suitability hearing ~~or the setting of a parole date~~ for a person  
9 sentenced to a life sentence under this section, may forward that  
10 information either by facsimile or electronic mail. The Department  
11 of Corrections *and Rehabilitation* shall establish procedures for  
12 receiving the information by facsimile or electronic mail pursuant  
13 to this subdivision.

14 *SEC. 7. Section 3043 of the Penal Code is amended to read:*

15 3043. (a) (1) Upon request to the Department of Corrections  
16 and Rehabilitation and verification of the identity of the requester,  
17 notice of any hearing to review or consider the parole suitability  
18 ~~or the setting of a parole date for any prisoner~~ *for any inmate* in a  
19 state prison shall be given by telephone, certified mail, regular  
20 mail, or electronic mail, using the method of communication  
21 selected by the requesting party, if that method is available, by the  
22 Board of Parole Hearings at least 90 days before the hearing to  
23 any victim of any crime committed by the ~~prisoner~~, *inmate*, or to  
24 the next of kin of the victim if the victim has died, to include the  
25 commitment crimes, determinate term commitment crimes for  
26 which the ~~prisoner~~ *inmate* has been paroled, and any other felony  
27 crimes or crimes against the person for which the ~~prisoner~~ *inmate*  
28 has been convicted. The requesting party shall keep the board  
29 apprised of his or her current contact information in order to receive  
30 the notice.

31 (2) No later than 30 days ~~prior to~~ *before* the date selected for  
32 the hearing, any person, other than the victim, entitled to attend  
33 the hearing shall inform the board of his or her intention to attend  
34 the hearing and the name and identifying information of any other  
35 person entitled to attend the hearing who will accompany him or  
36 her.

37 (3) No later than 14 days ~~prior to~~ *before* the date selected for  
38 the hearing, the board shall notify every person entitled to attend  
39 the hearing confirming the date, time, and place of the hearing.

(b) (1) The victim, next of kin, members of the victim's family, and two representatives designated as provided in paragraph (2) of this subdivision have the right to appear, personally or by counsel, at the hearing and to adequately and reasonably express his, her, or their views concerning the ~~prisoner inmate~~ and the case, including, but not limited to the commitment crimes, determinate term commitment crimes for which the ~~prisoner inmate~~ has been paroled, any other felony crimes or crimes against the person for which the ~~prisoner inmate~~ has been convicted, the effect of the enumerated crimes on the victim and the family of the victim, the person responsible for these enumerated crimes, and the suitability of the ~~prisoner inmate~~ for parole.

(2) Any statement provided by a representative designated by the victim or next of kin may cover any subject about which the victim or next of kin has the right to be heard including any recommendation regarding the granting of parole. The representatives shall be designated by the victim or, in the event that the victim is deceased or incapacitated, by the next of kin. They shall be designated in writing for the particular hearing ~~prior~~ ~~to before~~ the hearing.

(c) A representative designated by the victim or the victim's next of kin for purposes of this section may be any adult person selected by the victim or the family of the victim. The board shall permit a representative designated by the victim or the victim's next of kin to attend a particular hearing, to provide testimony at a hearing, and to submit a statement to be included in the hearing as provided in Section 3043.2, even though the victim, next of kin, or a member of the victim's immediate family is present at the hearing, and even though the victim, next of kin, or a member of the victim's immediate family has submitted a statement as described in Section 3043.2.

(d) The board, in deciding whether to release the person on parole, shall consider the entire and uninterrupted statements of the victim or victims, next of kin, immediate family members of the victim, and the designated representatives of the victim or next of kin, if applicable, made pursuant to this section and shall include in its report a statement whether the person would pose a threat to public safety if released on parole.

(e) In those cases where there are more than two immediate family members of the victim who wish to attend any hearing

covered in this section, the board shall allow attendance of additional immediate family members to include the following: spouse, children, parents, siblings, grandchildren, and grandparents.

*SEC. 8. Section 3043.1 of the Penal Code is amended to read:*

3043.1. Notwithstanding any other ~~provision of law~~, a victim, his or her next of kin, or any immediate family member of the victim who appears at any hearing to review or consider the parole suitability ~~or the setting of a parole date for any prisoner of any inmate~~ pursuant to Section 3043 shall be entitled to the attendance of one person of his or her own choosing at the hearing for support. The person so chosen shall not participate in the hearing nor make comments while in attendance.

*SEC. 9. Section 3043.2 of the Penal Code is amended to read:*

3043.2. (a) (1) In lieu of personal appearance at any hearing to review the parole ~~suitability or the setting of a parole date~~, ~~suitability~~, the Board of ~~Prison Terms~~ *Parole Hearings* shall permit the victim, his or her next of kin, immediate family members, or two representatives designated for a particular hearing by the victim or next of kin in writing ~~prior to~~ *before* the hearing to file with the board a written, audiotaped, or videotaped statement, or statement stored on a CD Rom, DVD, or any other recording medium accepted by a court pursuant to Section 1191.15 or by the board, expressing his or her views concerning the crime and the person responsible. The statement may be personal messages from the person to the board made at any time or may be a statement made pursuant to Section 1191.16, or a combination of both, except that any statement provided by a representative designated by the victim or next of kin shall be limited to comments concerning the effect of the crime on the victim.

(2) A representative designated by the victim or the victim's next of kin for purposes of this section must be either a family or household member of the victim.

(3) The board shall consider any statement filed prior to reaching a decision, and shall include in its report a statement of whether the person would pose a threat to public safety if released on parole.

(b) Whenever an audio or video statement or a statement stored on a CD Rom, DVD, or other medium is filed with the board, a written transcript of the statement shall also be provided by the person filing the statement.

(c) Nothing in this section shall be construed to prohibit the prosecutor from representing to the board the views of the victim, his or her immediate family members, or next of kin.

(d) In the event the board permits an audio or video statement or statement stored on a CD Rom, DVD, or other medium to be filed, the board shall not be responsible for providing any equipment or resources needed to assist the victim in preparing the statement.

*SEC. 10. Section 3043.25 of the Penal Code is amended to read:*

3043.25. Any victim, next of kin, members of the victim's immediate family, or representatives designated for a particular hearing by the victim or next of kin in writing ~~prior to~~ before the hearing who have the right to appear at a hearing to review parole suitability ~~or the setting of a parole date~~, either personally as provided in Section 3043, or by a written, audiotaped, or videotaped statement as provided in Section 3043.2, and any prosecutor who has the right to appear pursuant to Section 3041.7, shall also have the right to appear by means of videoconferencing, if videoconferencing is available at the hearing site. For the purposes of this section, "videoconferencing" means the live transmission of audio and video signals by any means from one physical location to another.

*SEC. 11. Section 3046 of the Penal Code is amended to read:*

3046. (a) ~~No prisoner~~ *An inmate* imprisoned under a life sentence ~~may shall not~~ be paroled until he or she has served the greater of the following:

(1) A term of at least seven calendar years.

(2) A term as established pursuant to any other ~~provision of law~~ that establishes a minimum term or minimum period of confinement under a life sentence before eligibility for parole.

(b) If two or more life sentences are ordered to run consecutively to each other pursuant to Section 669, ~~no prisoner an inmate~~ so imprisoned ~~may shall not~~ be paroled until he or she has served the term specified in subdivision (a) on each of the life sentences that are ordered to run consecutively.

(c) Notwithstanding subdivisions (a) and (b), ~~a prisoner an inmate~~ found suitable for parole pursuant to a youth offender parole hearing as described in Section 3051 shall be paroled regardless of the manner in which the board set release dates pursuant to

subdivision (a) of Section 3041, subject to subdivision (b) of Section 3041 and Sections 3041.1 and 3041.2, as applicable.

(d) The Board of ~~Prison Terms Parole Hearings~~ shall, in considering a parole for ~~a prisoner~~, *an inmate*, consider all statements and recommendations which may have been submitted by the judge, district attorney, and sheriff, pursuant to Section 1203.01, or in response to notices given under Section 3042, and recommendations of other persons interested in the granting or denying of the parole. The board shall enter on its order granting or denying parole to these ~~prisoners~~, *inmates*, the fact that the statements and recommendations have been considered by it.

SEC. 12. Section 3052 of the Penal Code is amended to read:

3052. The Board of ~~Prison Terms Parole Hearings~~ shall have the power to establish and enforce rules and regulations under which ~~prisoners~~ *inmates* committed to state prisons may be allowed to go upon parole outside the prison buildings and enclosures when eligible for parole.

SECTION 1. ~~Section 3041 of the Penal Code is amended to read:~~

3041. (a) ~~In the case of any inmate sentenced pursuant to any law, other than Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, the Board of Parole Hearings shall meet with each inmate during the sixth year before the inmate's minimum eligible parole release date for the purposes of reviewing and documenting the inmate's activities and conduct pertinent to both parole eligibility and to the granting or withholding of postconviction credit. During this consultation, the board shall provide the inmate information about the parole hearing process, legal factors relevant to his or her suitability or unsuitability for parole, and individualized recommendations for the inmate regarding his or her work assignments, rehabilitative programs, and institutional behavior. Within 30 days following the consultation, the board shall issue its positive and negative findings and recommendations to the inmate in writing. One year before the inmate's minimum eligible parole release date a panel of two or more commissioners or deputy commissioners shall again meet with the inmate and shall normally set a parole release date as provided in Section 3041.5. No more than one member of the panel shall be a deputy commissioner. In the event of a tie vote, the matter shall be referred for an en banc review of the record that~~

~~1 was before the panel that rendered the tie vote. Upon en banc  
2 review, the board shall vote to either grant or deny parole and  
3 render a statement of decision. The en banc review shall be  
4 conducted pursuant to subdivision (c). The release date shall be  
5 set in a manner that will provide uniform terms for offenses of  
6 similar gravity and magnitude with respect to their threat to the  
7 public, and that will comply with the sentencing rules that the  
8 Judicial Council may issue and any sentencing information relevant  
9 to the setting of parole release dates. The board shall establish  
10 criteria for the setting of parole release dates and in doing so shall  
11 consider the number of victims of the crime for which the inmate  
12 was sentenced and other factors in mitigation or aggravation of  
13 the crime. At least one commissioner of the panel shall have been  
14 present at the last preceding meeting, unless it is not feasible to  
15 do so or where the last preceding meeting was the initial meeting.  
16 Any person on the hearing panel may request review of any  
17 decision regarding parole for an en banc hearing by the board. In  
18 case of a review, a majority vote in favor of parole by the board  
19 members participating in an en banc review is required to grant  
20 parole to any inmate.~~

~~21 (b) The panel or the board, sitting en banc, shall set a release  
22 date unless it determines that the gravity of the current convicted  
23 offense or offenses, or the timing and gravity of current or past  
24 convicted offense or offenses, is such that consideration of the  
25 public safety requires a more lengthy period of incarceration for  
26 this individual, and that a parole date, therefore, cannot be fixed  
27 at this meeting. After the effective date of this subdivision, any  
28 decision of the parole panel finding an inmate suitable for parole  
29 shall become final within 120 days of the date of the hearing.  
30 During that period, the board may review the panel's decision.  
31 The panel's decision shall become final pursuant to this subdivision  
32 unless the board finds that the panel made an error of law, or that  
33 the panel's decision was based on an error of fact, or that new  
34 information should be presented to the board, any of which when  
35 corrected or considered by the board has a substantial likelihood  
36 of resulting in a substantially different decision upon a rehearing.  
37 In making this determination, the board shall consult with the  
38 commissioners who conducted the parole consideration hearing.  
39 No decision of the parole panel shall be disapproved and referred~~



1 ~~for rehearing except by a majority vote of the board, sitting en~~  
2 ~~banec, following a public meeting.~~

3 ~~(e) For the purpose of reviewing the suitability for parole of~~  
4 ~~those inmates eligible for parole under prior law at a date earlier~~  
5 ~~than that calculated under Section 1170.2, the board shall appoint~~  
6 ~~panels of at least two persons to meet annually with each inmate~~  
7 ~~until the time the inmate is released pursuant to proceedings or~~  
8 ~~reaches the expiration of his or her term as calculated under Section~~  
9 ~~1170.2.~~

10 ~~(d) It is the intent of the Legislature that, during times when~~  
11 ~~there is no backlog of inmates awaiting parole hearings, life parole~~  
12 ~~consideration hearings, or life rescission hearings, hearings will~~  
13 ~~be conducted by a panel of three or more members, the majority~~  
14 ~~of whom shall be commissioners. The board shall report monthly~~  
15 ~~on the number of cases where an inmate has not received a~~  
16 ~~completed initial or subsequent parole consideration hearing within~~  
17 ~~30 days of the hearing date required by subdivision (a) of Section~~  
18 ~~3041.5 or paragraph (2) of subdivision (b) of Section 3041.5, unless~~  
19 ~~the inmate has waived the right to those timeframes. That report~~  
20 ~~shall be considered the backlog of cases for purposes of this~~  
21 ~~section, and shall include information on the progress toward~~  
22 ~~eliminating the backlog, and on the number of inmates who have~~  
23 ~~waived their right to the above timeframes. The report shall be~~  
24 ~~made public at a regularly scheduled meeting of the board and a~~  
25 ~~written report shall be made available to the public and transmitted~~  
26 ~~to the Legislature quarterly, in compliance with Section 9795 of~~  
27 ~~the Government Code.~~

28 ~~(e) For purposes of this section, an en banc review by the board~~  
29 ~~means a review conducted by a majority of commissioners holding~~  
30 ~~office on the date the matter is heard by the board. An en banc~~  
31 ~~review shall be conducted in compliance with the following:~~

32 ~~(1) The commissioners conducting the review shall consider~~  
33 ~~the entire record of the hearing that resulted in the tie vote.~~

34 ~~(2) The review shall be limited to the record of the hearing. The~~  
35 ~~record shall consist of the transcript or audiotape of the hearing,~~  
36 ~~written or electronically recorded statements actually considered~~  
37 ~~by the panel that produced the tie vote, and any other material~~  
38 ~~actually considered by the panel. New evidence or comments shall~~  
39 ~~not be considered in the en banc proceeding.~~

- 1     ~~(3) The board shall separately state reasons for its decision to~~
- 2     ~~grant or deny parole.~~
- 3     ~~(4) A commissioner who was involved in the tie vote shall be~~
- 4     ~~recused from consideration of the matter in the en banc review.~~