

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1310

Introduced by Senator Leno

February 19, 2016

An act to ~~add~~ *amend* Section ~~3055~~ to 556.4 of the Penal Code, relating to ~~parole~~: *trespass*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1310, as amended, Leno. ~~Elderly Parole Program. Trespass: illegal signs.~~

Existing law makes it a misdemeanor to place or maintain any sign, picture, transparency, advertisement, or mechanical device for the purpose of advertising on public or private property without lawful permission or consent of the owner. Existing law allows information that appears on the advertisement to be used as evidence to establish the fact that a person or entity is responsible for posting the advertisement.

This bill would make a technical, nonsubstantive change to these provisions.

~~Existing law requires the Board of Parole Hearings to meet with an inmate during the 6th year prior to the inmate's minimum eligible parole release date to document the inmate's activities and conduct pertinent to parole eligibility. Existing law, the Victims' Bill of Rights Act of 2008: Marsy's Law, as added by Proposition 9 at the November 4, 2008, statewide general election, requires the panel, or the board if sitting en banc, to set a release date at the meeting, unless it determines that consideration of the public and victim's safety requires a more lengthy period of incarceration, and that a parole date cannot be fixed at the meeting. Existing law requires the board to schedule the next parole~~

consideration hearing 15, 10, 7, 5, or 3 years after any hearing at which parole is denied. Existing law allows the board to advance a hearing set pursuant to these provisions to an earlier date when a change in circumstances or new information establishes a reasonable likelihood that consideration of the public and victim's safety does not require an additional period of incarceration.

Existing law, as added by Proposition 184, adopted November 8, 1994, and amended by Proposition 36, adopted November 6, 2012, commonly known as the Three Strikes Law, imposes increased penalties for certain recidivist offenders. In particular, it requires that, in addition to any other enhancement or penalty provisions that may apply, if a defendant has 2 or more prior felony convictions, the term for the current felony conviction shall be an indeterminate term of imprisonment in the state prison for life with a minimum term of the greatest of 3 times the term otherwise provided as punishment for each current felony conviction subsequent to the 2 or more prior felony convictions, imprisonment in the state prison for 25 years, or the term determined by the court for the underlying conviction, including any applicable enhancement or punishment provisions. The initiative measure enacting the Three Strikes Law prohibits the Legislature from amending the act except by a statute passed by a $\frac{2}{3}$ vote or by a statute that becomes effective only when approved by the electors.

This bill would establish the Elderly Parole Program, for prisoners who are 50 years of age or older, who have served 15 years of their sentence, and who have a reentry plan identifying residential, financial, and social integration plans. When considering the release of an inmate who meets this criteria, the bill would require the board to consider whether age, time served, and diminished physical condition, if any, have reduced the elderly prisoner's risk for future violence. The bill would also require the Board of Parole Hearings to consider whether a prisoner will qualify for the program when determining the prisoner's next parole suitability hearing.

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: *yes-no*. State-mandated local program: no.

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

1 SECTION 1. Section 556.4 of the Penal Code is amended to
2 read:

1 556.4. For purposes of this article, information that appears on
2 any a sign, picture, transparency, advertisement, or mechanical
3 device such as, but not limited to, the following, may be used as
4 evidence to establish the fact, and may create an inference, that a
5 person or entity is responsible for the posting of the sign, picture,
6 transparency, advertisement, or mechanical device:

7 (a) The name, telephone number, address, or other identifying
8 information regarding the real estate broker, real estate brokerage
9 firm, real estate agent, or other person associated with the firm.

10 (b) The name, telephone number, address, or other identifying
11 information of the owner or lessee of property used for a
12 commercial activity or event.

13 (c) The name, telephone number, address, or other identifying
14 information of the sponsor or promoter of a sporting event, concert,
15 theatrical performance, or similar activity or event.

16 SECTION 1. ~~The Legislature finds and declares all of the~~
17 ~~following:~~

18 ~~(a) On February 10, 2014, the three-judge court overseeing the~~
19 ~~California prison overcrowding class action case (Coleman v.~~
20 ~~Brown (2013) 952 F.Supp.2d 901) issued an order that, among~~
21 ~~other things, requires the state to implement an Elderly Parole~~
22 ~~Program so that prisoners who are 60 years of age or older and~~
23 ~~who have been incarcerated at least 25 years on their current~~
24 ~~sentence will be referred to the Board of Parole Hearings (BPH)~~
25 ~~to determine suitability for parole. The BPH implemented this~~
26 ~~Elderly Parole Program on October 1, 2014.~~

27 ~~(b) Under the existing Elderly Parole Program hearings,~~
28 ~~prisoners who are 60 years of age or older and who have been~~
29 ~~incarcerated 25 years or more on their current sentence serving~~
30 ~~either a determinate or indeterminate sentence, and who have not~~
31 ~~yet had an initial parole suitability hearing are referred by the~~
32 ~~California Department of Corrections and Rehabilitation (CDCR)~~
33 ~~to the BPH and scheduled for an Elderly Parole Program Suitability~~
34 ~~hearing.~~

35 ~~(c) Under the existing Elderly Parole Program hearings,~~
36 ~~prisoners who are 60 years of age or older and who have been~~
37 ~~incarcerated 25 years or more on their current term and who have~~
38 ~~already been denied parole at the initial suitability hearing are~~
39 ~~considered for a new hearing under the Elderly Parole Program.~~

1 ~~(d) The BPH currently reviews all three-year denials annually~~
2 ~~to determine if a more prompt parole consideration hearing should~~
3 ~~be considered. Under the existing Elderly Parole Program, the~~
4 ~~BPH includes within that annual review whether any prisoner~~
5 ~~meets the elder parole eligibility criteria, and if so whether to~~
6 ~~schedule a hearing.~~

7 ~~(e) Under the existing Elderly Parole Program, prisoners who~~
8 ~~have lengthier denial periods can file petitions with the BPH asking~~
9 ~~that their hearing be advanced because they meet the eligibility~~
10 ~~criteria for elder parole.~~

11 ~~(f) The BPH may deny parole if an elderly prisoner's release~~
12 ~~would pose an unreasonable risk of danger to public safety. Parole~~
13 ~~suitability hearing decisions for elderly parole inmates are reviewed~~
14 ~~in the same manner as all other parolees under eligibility~~
15 ~~consideration, pursuant to criteria specified by Section 2281 of~~
16 ~~Title 15 of the California Code of Regulations. However, for all~~
17 ~~Elderly Parole Program hearings, the BPH risk assessments~~
18 ~~consider whether age, time served, and diminished physical~~
19 ~~condition, if any, reduce elderly prisoners' risk for future violence.~~

20 ~~(g) The number of elderly prisoners in California state prisons~~
21 ~~will continue to increase exponentially. In 2013, the CDCR~~
22 ~~reported a population of prisoners 50 years of age and older as~~
23 ~~27,580 and the population of prisoners 55 years of age and older~~
24 ~~as 14,856.~~

25 ~~(h) Costs associated with geriatric medical needs begin to~~
26 ~~accumulate at 50 years of age, given that there is an overwhelming~~
27 ~~consensus that the age of 50 constitutes a point when prisoners are~~
28 ~~considered elderly. In 2010, the LAO estimated from other state~~
29 ~~projections that incarcerating elderly offenders costs two to three~~
30 ~~times more than for the general prison population. In 2010, the~~
31 ~~average cost of incarcerating an inmate was approximately \$51,000.~~

32 ~~(i) Older persons have significantly low arrest rates. In 2001,~~
33 ~~the federal arrest rate for persons 40 to 44, inclusive, years of age~~
34 ~~was 0.73 percent. The rate decreases by about one-half every five~~
35 ~~years, dropping to 0.46 percent for persons 45 to 49, inclusive,~~
36 ~~years of age and 0.26 percent for persons 50 to 54, inclusive, years~~
37 ~~of age. For persons 50 to 59, inclusive, years of age, the arrest rate~~
38 ~~plummets to 0.14 percent.~~

39 ~~(j) There is a lower risk of recidivism among elderly prisoners,~~
40 ~~according to CDCR statistics. In 2013, CDCR reported that only~~

1 ~~33.8 percent of persons who were 60 years of age and older,~~
2 ~~returned to prison after one year from being released from prison.~~
3 ~~Recidivism rates for persons 50 to 54, inclusive, years of age and~~
4 ~~55 to 59, inclusive, years of age after one year from being released~~
5 ~~from prison were 39.9 and 38.3 percent, respectively.~~

6 ~~SEC. 2.— Section 3055 is added to the Penal Code, to read:~~

7 ~~3055. (a) The Elderly Parole Program is hereby established,~~
8 ~~to be administered by the Board of Parole Hearings.~~

9 ~~(b) A prisoner shall be considered for parole under the Elderly~~
10 ~~Parole Program if he or she meets all of the following conditions:~~

11 ~~(1) The prisoner is 50 years of age or older.~~

12 ~~(2) The prisoner has served 15 years of his or her sentence.~~

13 ~~(3) The prisoner has a reentry plan identifying residential,~~
14 ~~financial, and social integration plans.~~

15 ~~(c) When considering the release of a prisoner specified by~~
16 ~~subdivision (b) pursuant to Section 3041, the board shall give~~
17 ~~special consideration to whether age, time served, and diminished~~
18 ~~physical condition, if any, have reduced the elderly prisoner's risk~~
19 ~~for future violence.~~

20 ~~(d) When scheduling a parole suitability hearing date pursuant~~
21 ~~to subdivision (b) of Section 3041.5 or when considering a request~~
22 ~~for an advance hearing pursuant to subdivision (d) of Section~~
23 ~~3041.5, the board shall consider whether the prisoner meets or will~~
24 ~~meet the criteria specified in subdivision (b).~~