

**ASSEMBLY BILL**

**No. 456**

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**Introduced by Assembly Member Longville**

February 16, 1999

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An act to add Section 3052.5 to the Penal Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

AB 456, as introduced, Longville. Corrections: geriatric inmates.

Existing law vests in the Board of Prison Terms, the power to grant supervised parole outside the prison walls, and requires a state prison inmate, upon completion of his or her term of imprisonment, to serve a specified period of time on supervised parole.

This bill would authorize the board to grant, under specified conditions, geriatric parole, electronic home detention, or transfer to a correctional nursing care facility, to any geriatric or older inmate who is serving an indeterminate sentence, at any time during the term of the inmate's sentence. The bill would require the board to establish an electronic home detention program for geriatric and older inmates to serve the remainder of their sentence under specified conditions. The bill would also require the Department of Corrections to designate those correctional institutions and facilities that will be maintained as nursing homes for geriatric and older inmates. Geriatric or older inmate would be defined to mean any inmate who is sixty years of age or older.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 3052.5 is added to the Penal  
2 Code, to read:  
3 3052.5. (a) In order to develop a more effective and  
4 cost-effective treatment for the rising population of  
5 geriatric and older prisoners, the Board of Prison Terms  
6 shall establish a program for geriatric and older inmates  
7 to be administered by the board in cooperation with the  
8 department of corrections. The program for geriatric and  
9 older inmates shall include, but is not limited to, geriatric  
10 parole, electronic detention, and correctional nursing  
11 care. For purposes of this act:  
12 (1) "Board" means the Board of Prison Terms.  
13 (2) "Director" means the Director of Corrections.  
14 (3) "Geriatric or older inmate" means any inmate who  
15 is 60 years of age or older.  
16 (4) "Project for Older Prisoners" (POPS) means a pro  
17 bono project affiliated with a private or public law school,  
18 and staffed by law students under the direction of a  
19 licensed attorney, that reviews the cases of older and  
20 geriatric inmates for the purpose of determining the  
21 statistical level of risk for violence and recidivism that  
22 they present, and the probability that they would be able  
23 to participate successfully in geriatric parole, electronic  
24 home detention, correctional nursing care, or any other  
25 lawful program.  
26 (b) (1) The authority to grant geriatric parole or  
27 electronic home detention to geriatric or older inmates  
28 shall rest solely with the board. Release shall be granted  
29 only after the board considers whether there is a  
30 reasonable probability that, if released, the inmate would  
31 live and remain at liberty without violating the law, and  
32 that such release is not incompatible with the welfare of  
33 society and will not so deprecate the seriousness of the  
34 crime as to undermine respect for the law.



1 (2) The authority to transfer an older or geriatric  
2 inmate into a correctional nursing care facility shall rest  
3 with the Director of Corrections. The decision to transfer  
4 shall be made with regard to an inmate's health, projected  
5 health care needs, and level of risk for violence or escape.

6 (3) The board and the director shall cooperate with  
7 POPS programs in reviewing inmates for geriatric parole,  
8 electronic home detention, and correctional nursing care  
9 eligibility. POPS shall have access to all records and  
10 institutions necessary for the purpose of assessing  
11 whether or not an inmate presents a statistically low risk  
12 for violence or escape and evaluating the appropriateness  
13 of his or her participation in geriatric parole, medical  
14 parole, electronic home detention, or correctional  
15 nursing care.

16 (4) In reviewing any inmate under this section, the  
17 board, the director, and POPS may take into  
18 consideration the gravity of the offense for which the  
19 inmate has been sentenced.

20 (c) A denial of geriatric parole, electronic home  
21 detention, or correctional nursing care shall not preclude  
22 an inmate from reapplying for geriatric parole, electronic  
23 home detention, or correctional nursing care, nor shall it  
24 affect his or her eligibility for any other program  
25 provided by law.

26 (d) The Director of Corrections and the chair of the  
27 board shall be authorized to promulgate rules and  
28 regulations for their respective agencies to implement  
29 the provisions of this act.

30 (1) Pursuant to subdivision (b), the board shall have  
31 the power to release on geriatric parole any geriatric or  
32 older inmate who is serving an indeterminate sentence of  
33 imprisonment. Notwithstanding any other provision of  
34 law, release may be granted at any time during the term  
35 of an inmate's sentence.

36 (2) Geriatric parole granted pursuant to this section  
37 shall be for the remainder of the inmate's sentence,  
38 without diminution of sentence for good behavior.

39 (e) The board shall establish an electronic home  
40 detention program for geriatric and older inmates. Any



1 geriatric or older prisoner who is serving an  
2 indeterminate sentence of imprisonment is eligible to be  
3 considered for electronic home detention pursuant to  
4 subdivision (b). The board, or its designate, may  
5 promulgate any reasonable rules or guidelines under  
6 which the electronic home detention shall operate. These  
7 rules shall include, but are not limited to, the following:

8 (1) Electronic home detention granted to a geriatric  
9 or older inmate pursuant to this section shall be for the  
10 remainder of the inmate's sentence, without diminution  
11 of sentence for good behavior.

12 (2) The participant shall remain within the interior  
13 premises of his or her residence during the hours  
14 designated by the supervising authority. A participant  
15 may be permitted to leave the interior premises of his or  
16 her residence only with the prior approval of the  
17 supervising authority. The grounds on which the  
18 supervising authority may grant an approved absence  
19 include the following:

20 (A) Engaging in employment or traveling to or from  
21 employment.

22 (B) Seeking employment.

23 (C) Undergoing medical, psychiatric counseling, or  
24 other treatment program.

25 (D) Attending an educational institution.

26 (E) Attending a regularly scheduled religious service  
27 at a place of worship.

28 (F) Participating in community services programs.

29 (G) Any other compelling reason consistent with the  
30 public interest.

31 (3) For the purpose of verifying the participant's  
32 compliance with the conditions of his or her electronic  
33 home detention, the participant shall, at any time:

34 (A) Admit any person or agent designated by the  
35 supervising authority into his or her residence.

36 (B) Acknowledge and comply with his or her  
37 electronic monitoring device.

38 (C) Make the necessary arrangements to allow for any  
39 person or agent designated by the supervising authority  
40 to visit the participant's place of education or



1 employment, based upon the approval of the educational  
2 institution or employer.

3 (4) The participant shall obtain approval from the  
4 supervising authority before changing his or her  
5 residence.

6 (5) The supervising authority may immediately take  
7 the participant into custody to serve the balance of his or  
8 her sentence if, for any reason, the electronic monitoring  
9 or supervising devices are unable to perform their  
10 function at the designated place of home detention, or if  
11 the participant fails to comply with the conditions of his  
12 or her electronic home detention or for any other reason  
13 no longer meets the established criteria for release.

14 (e) The Department of Corrections shall designate, as  
15 needed, those correctional institutions and facilities  
16 which shall be maintained as nursing homes for geriatric  
17 and older inmates. These facilities shall be available to  
18 inmates pursuant to subdivision (b).

