

Introduced by Senator Emmerson

(Coauthors: Assembly Members Miller, Morrell, and Nestande)

February 24, 2012

An act to amend Section 1170 of the Penal Code, relating to imprisonment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1441, as introduced, Emmerson. Imprisonment: sentences punishable in state prison.

Under existing law, certain specified felonies shall be punished by imprisonment in a county jail for 16 months, or 2 or 3 years, or where the term is specified, for the term described in the underlying offense. Notwithstanding these provisions, existing law requires that a sentence be served in state prison where the defendant has a prior or current conviction for a serious or violent felony, has a prior felony conviction in another jurisdiction that has all of the elements of a serious or violent felony, is required to register as a sex offender, or has an aggravated white collar crime enhancement imposed as part of the sentence.

This bill would additionally require a sentence to be served in state prison when the defendant is convicted of a felony otherwise punishable in a county jail and is sentenced to more than 3 years.

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 1170 of the Penal Code, as amended by
- 2 Section 6.7 of Chapter 361 of the Statutes of 2011, is amended to
- 3 read:

1 1170. (a) (1) The Legislature finds and declares that the
2 purpose of imprisonment for crime is punishment. This purpose
3 is best served by terms proportionate to the seriousness of the
4 offense with provision for uniformity in the sentences of offenders
5 committing the same offense under similar circumstances. The
6 Legislature further finds and declares that the elimination of
7 disparity and the provision of uniformity of sentences can best be
8 achieved by determinate sentences fixed by statute in proportion
9 to the seriousness of the offense as determined by the Legislature
10 to be imposed by the court with specified discretion.

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

23 (3) In any case in which the punishment prescribed by statute
24 for a person convicted of a public offense is a term of imprisonment
25 in the state prison of any specification of three time periods, the
26 court shall sentence the defendant to one of the terms of
27 imprisonment specified unless the convicted person is given any
28 other disposition provided by law, including a fine, jail, probation,
29 or the suspension of imposition or execution of sentence or is
30 sentenced pursuant to subdivision (b) of Section 1168 because he
31 or she had committed his or her crime prior to July 1, 1977. In
32 sentencing the convicted person, the court shall apply the
33 sentencing rules of the Judicial Council. The court, unless it
34 determines that there are circumstances in mitigation of the
35 punishment prescribed, shall also impose any other term that it is
36 required by law to impose as an additional term. Nothing in this
37 article shall affect any provision of law that imposes the death
38 penalty, that authorizes or restricts the granting of probation or
39 suspending the execution or imposition of sentence, or expressly
40 provides for imprisonment in the state prison for life. In any case

1 in which the amount of preimprisonment credit under Section
2 2900.5 or any other provision of law is equal to or exceeds any
3 sentence imposed pursuant to this chapter, the entire sentence shall
4 be deemed to have been served and the defendant shall not be
5 actually delivered to the custody of the secretary. The court shall
6 advise the defendant that he or she shall serve a period of parole
7 and order the defendant to report to the parole office closest to the
8 defendant's last legal residence, unless the in-custody credits equal
9 the total sentence, including both confinement time and the period
10 of parole. The sentence shall be deemed a separate prior prison
11 term under Section 667.5, and a copy of the judgment and other
12 necessary documentation shall be forwarded to the secretary.

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

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

37 (d) When a defendant subject to this section or subdivision (b)
38 of Section 1168 has been sentenced to be imprisoned in the state
39 prison and has been committed to the custody of the secretary, the
40 court may, within 120 days of the date of commitment on its own

1 motion, or at any time upon the recommendation of the secretary
2 or the Board of Parole Hearings, recall the sentence and
3 commitment previously ordered and resentence the defendant in
4 the same manner as if he or she had not previously been sentenced,
5 provided the new sentence, if any, is no greater than the initial
6 sentence. The resentence under this subdivision shall apply the
7 sentencing rules of the Judicial Council so as to eliminate disparity
8 of sentences and to promote uniformity of sentencing. Credit shall
9 be given for time served.

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

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

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

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

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

31 The Board of Parole Hearings shall make findings pursuant to
32 this subdivision before making a recommendation for resentence
33 or recall to the court. This subdivision does not apply to a prisoner
34 sentenced to death or a term of life without the possibility of parole.

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

38 (4) Any physician employed by the department who determines
39 that a prisoner has six months or less to live shall notify the chief
40 medical officer of the prognosis. If the chief medical officer

1 concurs with the prognosis, he or she shall notify the warden.
2 Within 48 hours of receiving notification, the warden or the
3 warden's representative shall notify the prisoner of the recall and
4 resentencing procedures, and shall arrange for the prisoner to
5 designate a family member or other outside agent to be notified
6 as to the prisoner's medical condition and prognosis, and as to the
7 recall and resentencing procedures. If the inmate is deemed
8 mentally unfit, the warden or the warden's representative shall
9 contact the inmate's emergency contact and provide the information
10 described in paragraph (2).

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

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

36 (7) Any recommendation for recall submitted to the court by
37 the secretary or the Board of Parole Hearings shall include one or
38 more medical evaluations, a postrelease plan, and findings pursuant
39 to paragraph (2).

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

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

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

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

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

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

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

(3) Notwithstanding paragraphs (1) and (2), where the defendant (A) has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7 or a prior or current conviction for a violent felony described in subdivision (c) of Section 667.5, (B) has a prior felony conviction in another

jurisdiction for an offense that has all the elements of a serious felony described in subdivision (c) of Section 1192.7 or a violent felony described in subdivision (c) of Section 667.5, (C) is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, ~~or~~ (D) is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, *or (E) is convicted of a felony punishable pursuant to this subdivision and is sentenced to more than three years*, an executed sentence for a felony punishable pursuant to this subdivision shall be served in state prison.

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

(5) The court, when imposing a sentence pursuant to paragraph (1) or (2) of this subdivision, may commit the defendant to county jail as follows:

(A) For a full term in custody as determined in accordance with the applicable sentencing law.

(B) For a term as determined in accordance with the applicable sentencing law, but suspend execution of a concluding portion of the term selected in the court's discretion, during which time the defendant shall be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation, for the remaining unserved portion of the sentence imposed by the court. The period of supervision shall be mandatory, and may not be earlier terminated except by court order. During the period when the defendant is under such supervision, unless in actual custody related to the sentence imposed by the court, the defendant shall be entitled to only actual time credit against the term of imprisonment imposed by the court.

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

(i) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 2. Section 1170 of the Penal Code, as amended by Section 7.7 of Chapter 361 of the Statutes of 2011, is amended to read:

1 1170. (a) (1) The Legislature finds and declares that the
2 purpose of imprisonment for crime is punishment. This purpose
3 is best served by terms proportionate to the seriousness of the
4 offense with provision for uniformity in the sentences of offenders
5 committing the same offense under similar circumstances. The
6 Legislature further finds and declares that the elimination of
7 disparity and the provision of uniformity of sentences can best be
8 achieved by determinate sentences fixed by statute in proportion
9 to the seriousness of the offense as determined by the Legislature
10 to be imposed by the court with specified discretion.

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

23 (3) In any case in which the punishment prescribed by statute
24 for a person convicted of a public offense is a term of imprisonment
25 in the state prison of any specification of three time periods, the
26 court shall sentence the defendant to one of the terms of
27 imprisonment specified unless the convicted person is given any
28 other disposition provided by law, including a fine, jail, probation,
29 or the suspension of imposition or execution of sentence or is
30 sentenced pursuant to subdivision (b) of Section 1168 because he
31 or she had committed his or her crime prior to July 1, 1977. In
32 sentencing the convicted person, the court shall apply the
33 sentencing rules of the Judicial Council. The court, unless it
34 determines that there are circumstances in mitigation of the
35 punishment prescribed, shall also impose any other term that it is
36 required by law to impose as an additional term. Nothing in this
37 article shall affect any provision of law that imposes the death
38 penalty, that authorizes or restricts the granting of probation or
39 suspending the execution or imposition of sentence, or expressly
40 provides for imprisonment in the state prison for life. In any case

1 in which the amount of preimprisonment credit under Section
2 2900.5 or any other provision of law is equal to or exceeds any
3 sentence imposed pursuant to this chapter, the entire sentence shall
4 be deemed to have been served and the defendant shall not be
5 actually delivered to the custody of the secretary. The court shall
6 advise the defendant that he or she shall serve a period of parole
7 and order the defendant to report to the parole office closest to the
8 defendant's last legal residence, unless the in-custody credits equal
9 the total sentence, including both confinement time and the period
10 of parole. The sentence shall be deemed a separate prior prison
11 term under Section 667.5, and a copy of the judgment and other
12 necessary documentation shall be forwarded to the secretary.

13 (b) When a judgment of imprisonment is to be imposed and the
14 statute specifies three possible terms, the court shall order
15 imposition of the middle term, unless there are circumstances in
16 aggravation or mitigation of the crime. At least four days prior to
17 the time set for imposition of judgment, either party or the victim,
18 or the family of the victim if the victim is deceased, may submit
19 a statement in aggravation or mitigation to dispute facts in the
20 record or the probation officer's report, or to present additional
21 facts. In determining whether there are circumstances that justify
22 imposition of the upper or lower term, the court may consider the
23 record in the case, the probation officer's report, other reports,
24 including reports received pursuant to Section 1203.03, and
25 statements in aggravation or mitigation submitted by the
26 prosecution, the defendant, or the victim, or the family of the victim
27 if the victim is deceased, and any further evidence introduced at
28 the sentencing hearing. The court shall set forth on the record the
29 facts and reasons for imposing the upper or lower term. The court
30 may not impose an upper term by using the fact of any
31 enhancement upon which sentence is imposed under any provision
32 of law. A term of imprisonment shall not be specified if imposition
33 of sentence is suspended.

34 (c) The court shall state the reasons for its sentence choice on
35 the record at the time of sentencing. The court shall also inform
36 the defendant that as part of the sentence after expiration of the
37 term he or she may be on parole for a period as provided in Section
38 3000.

39 (d) When a defendant subject to this section or subdivision (b)
40 of Section 1168 has been sentenced to be imprisoned in the state

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

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

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

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

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

26 (C) The prisoner is permanently medically incapacitated with
27 a medical condition that renders him or her permanently unable
28 to perform activities of basic daily living, and results in the prisoner
29 requiring 24-hour total care, including, but not limited to, coma,
30 persistent vegetative state, brain death, ventilator-dependency, loss
31 of control of muscular or neurological function, and that
32 incapacitation did not exist at the time of the original sentencing.

33 The Board of Parole Hearings shall make findings pursuant to
34 this subdivision before making a recommendation for resentence
35 or recall to the court. This subdivision does not apply to a prisoner
36 sentenced to death or a term of life without the possibility of parole.

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

1 (4) Any physician employed by the department who determines
2 that a prisoner has six months or less to live shall notify the chief
3 medical officer of the prognosis. If the chief medical officer
4 concurs with the prognosis, he or she shall notify the warden.
5 Within 48 hours of receiving notification, the warden or the
6 warden's representative shall notify the prisoner of the recall and
7 resentencing procedures, and shall arrange for the prisoner to
8 designate a family member or other outside agent to be notified
9 as to the prisoner's medical condition and prognosis, and as to the
10 recall and resentencing procedures. If the inmate is deemed
11 mentally unfit, the warden or the warden's representative shall
12 contact the inmate's emergency contact and provide the information
13 described in paragraph (2).

14 (5) The warden or the warden's representative shall provide the
15 prisoner and his or her family member, agent, or emergency
16 contact, as described in paragraph (4), updated information
17 throughout the recall and resentencing process with regard to the
18 prisoner's medical condition and the status of the prisoner's recall
19 and resentencing proceedings.

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

39 (7) Any recommendation for recall submitted to the court by
40 the secretary or the Board of Parole Hearings shall include one or

1 more medical evaluations, a postrelease plan, and findings pursuant
2 to paragraph (2).

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

5 (9) If the court grants the recall and resentencing application,
6 the prisoner shall be released by the department within 48 hours
7 of receipt of the court's order, unless a longer time period is agreed
8 to by the inmate. At the time of release, the warden or the warden's
9 representative shall ensure that the prisoner has each of the
10 following in his or her possession: a discharge medical summary,
11 full medical records, state identification, parole medications, and
12 all property belonging to the prisoner. After discharge, any
13 additional records shall be sent to the prisoner's forwarding
14 address.

15 (10) The secretary shall issue a directive to medical and
16 correctional staff employed by the department that details the
17 guidelines and procedures for initiating a recall and resentencing
18 procedure. The directive shall clearly state that any prisoner who
19 is given a prognosis of six months or less to live is eligible for
20 recall and resentencing consideration, and that recall and
21 resentencing procedures shall be initiated upon that prognosis.

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

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

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

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

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

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

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

17 (5) The court, when imposing a sentence pursuant to paragraph
18 (1) or (2) of this subdivision, may commit the defendant to county
19 jail as follows:

20 (A) For a full term in custody as determined in accordance with
21 the applicable sentencing law.

22 (B) For a term as determined in accordance with the applicable
23 sentencing law, but suspend execution of a concluding portion of
24 the term selected in the court's discretion, during which time the
25 defendant shall be supervised by the county probation officer in
26 accordance with the terms, conditions, and procedures generally
27 applicable to persons placed on probation, for the remaining
28 unserved portion of the sentence imposed by the court. The period
29 of supervision shall be mandatory, and may not be earlier
30 terminated except by court order. During the period when the
31 defendant is under such supervision, unless in actual custody
32 related to the sentence imposed by the court, the defendant shall
33 be entitled to only actual time credit against the term of
34 imprisonment imposed by the court.

35 (6) The sentencing changes made by the act that added this
36 subdivision shall be applied prospectively to any person sentenced
37 on or after October 1, 2011.

38 (i) This section shall become operative on January 1, 2014.

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