
Introduced by Senator Polanco

December 22, 1998

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

LEGISLATIVE COUNSEL'S DIGEST

SB 128, as introduced, Polanco. Prisoners.

Existing law provides that, for persons sentenced to terms of imprisonment other than under the determinate sentencing law, one year prior to the inmate's minimum eligible parole release date, a panel of the Board of Prison Terms shall meet with each inmate and normally set a parole release date.

This bill would provide that in the case of a first-time offender who was convicted of only one crime, the panel or board shall not deny the offender a release date based solely on the gravity of the offense if he or she has served the minimum mandatory term, as prescribed by the court, and he or she can show exemplary performance in prison.

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 3041 of the Penal Code is
2 amended to read:
3 3041. (a) In the case of any prisoner sentenced
4 pursuant to any provision of law, other than Chapter 4.5
5 (commencing with Section 1170) of Title 7 of Part 2, the

1 Board of Prison Terms shall meet with each ~~such inmate~~
2 *of those inmates* during the third year of incarceration for
3 the purposes of reviewing the inmate's file, making
4 recommendations, and documenting activities and
5 conduct pertinent to granting or withholding
6 post-conviction credit. One year prior to the inmate's
7 minimum eligible parole release date a panel consisting
8 of at least two commissioners of the Board of Prison
9 Terms shall again meet with the inmate and shall
10 normally set a parole release date as provided in Section
11 3041.5. The release date shall be set in a manner that will
12 provide uniform terms for offenses of similar gravity and
13 magnitude in respect to their threat to the public, and
14 that will comply with the sentencing rules that the
15 Judicial Council may issue and any sentencing
16 information relevant to the setting of parole release dates.
17 The board shall establish criteria for the setting of parole
18 release dates and in doing so shall consider the number
19 of victims of the crime for which the prisoner was
20 sentenced and other factors in mitigation or aggravation
21 of the crime. At least one commissioner of the panel shall
22 have been present at the last preceding meeting, unless
23 it is not feasible to do so or where the last preceding
24 meeting was the initial meeting. Any person on the
25 hearing panel may request review of any decision
26 regarding parole to the full board for an en banc hearing.
27 In case of such a review, a majority vote of the full Board
28 of Prison Terms in favor of parole is required to grant
29 parole to any prisoner.

30 (b) The panel or board shall set a release date unless
31 it determines that the gravity of the current convicted
32 offense or offenses, or the timing and gravity of current
33 or past convicted offense or offenses, is such that
34 consideration of the public safety requires a more lengthy
35 period of incarceration for this individual, and that a
36 parole date, therefore, cannot be fixed at this meeting.
37 *In the case of a first-time offender who was convicted of*
38 *only one crime, the panel or board shall not deny the*
39 *offender a release date based solely on the gravity of the*
40 *offense if he or she has served the minimum mandatory*



1 *term, as prescribed by the court, and he or she can show*
2 *exemplary performance in prison. As used in this*
3 *subdivision, “exemplary performance” includes lack of*
4 *disciplinary violations, increasing one’s education level or*
5 *job skills, and participating in appropriate programming,*
6 *as designated by the board or department.*

7 (c) For the purpose of reviewing the suitability for
8 parole of those prisoners eligible for parole under prior
9 law at a date earlier than that calculated under Section
10 1170.2, the board shall appoint panels of at least two
11 persons to meet annually with each ~~such prisoner~~ *of those*
12 *prisoners until—such the time—as that* the person is released
13 *pursuant to—such those* proceedings or reaches the
14 expiration of his *or her* term as calculated under Section
15 1170.2.

