

AMENDED IN SENATE APRIL 26, 1999

AMENDED IN SENATE MARCH 4, 1999

**SENATE BILL**

**No. 128**

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**Introduced by Senator Polanco**

December 22, 1998

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

LEGISLATIVE COUNSEL'S DIGEST

SB 128, as amended, Polanco. Prisoners.

Existing law provides that, for persons sentenced to terms of imprisonment other than under the determinate sentencing law, the Board of Prison Terms shall meet with the inmate during the 3rd year of incarceration to review the inmate's file, and to make recommendations.

This bill would require the board to discuss with the inmate what the subsequent process will be for determining the inmate's eligibility for parole, and prepare an inmate performance plan for the inmate.

Existing law provides that 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 instead require the panel to review the inmate's suitability for parole, based upon the inmate's performance plan. The bill would provide that if the board determines that an inmate is not suitable for parole, it shall

state in writing specifically why the inmate is being denied parole.

Existing law requires the panel or board to set a release date unless it makes certain determinations.

This bill would instead provide that the board shall set a release date if the board finds that the inmate is making satisfactory progress on his or her inmate performance plan, unless the board makes certain findings. The bill would require the board to specify in writing the reasons for its determination.

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. *The Legislature finds and declares as*  
 2 *follows:*

3 (a) *The primary purpose of the Department of*  
 4 *Corrections and the state prison system is to promote and*  
 5 *enhance public safety.*

6 (b) *Providing inmates early advice and direction*  
 7 *regarding how each of them can best prepare themselves*  
 8 *for living safely upon parole will greatly diminish the*  
 9 *probability that they will revictimize the public once*  
 10 *released.*

11 SEC. 2. Section 3041 of the Penal Code is amended to  
 12 read:

13 3041. (a) In the case of any prisoner sentenced  
 14 pursuant to any provision of law, other than Chapter 4.5  
 15 (commencing with Section 1170) of Title 7 of Part 2, the  
 16 Board of Prison Terms shall meet with each of those  
 17 inmates during the third year of incarceration for the  
 18 purposes of reviewing the inmate’s file, making  
 19 recommendations, and documenting activities and  
 20 conduct pertinent to granting or withholding  
 21 postconviction credit. Specifically, the board shall discuss  
 22 with the inmate what the subsequent process will be for  
 23 determining the inmate’s eligibility for parole, including  
 24 the timeline and procedures of parole eligibility hearings,  
 25 what the inmate’s minimum eligible release date is and



1 the significance of it, and what factors are important in  
2 finding an inmate eligible for parole. At that meeting, the  
3 board shall discuss and prepare an inmate performance  
4 plan for the inmate. The inmate performance plan shall  
5 consist of specific requirements that the board  
6 determines the inmate must meet in order to be eligible  
7 for parole. These requirements may include participation  
8 in educational classes, job skills training, substance abuse  
9 classes, life skills classes, *victim offender awareness*  
10 *programs*, or other activities that are relevant to the  
11 inmate's personal and criminal history. The plan may  
12 emphasize the importance of *offender accountability*,  
13 *victim restitution*, and remaining free of discipline  
14 problems, including abstention from involvement with  
15 prison gangs or other activities that lead to rules  
16 violations. The requirements shall be realistic,  
17 achievable, and relevant to that inmate.

18 One year prior to the inmate's minimum eligible parole  
19 release date a panel consisting of at least two  
20 commissioners of the Board of Prison Terms shall again  
21 meet with the inmate and shall review the inmate's  
22 suitability for parole, based upon the inmate's  
23 performance plan, according to the procedures provided  
24 in Section 3041.5. In the course of the review, the board  
25 shall consider setting a date that reflects uniform terms  
26 for offenses of similar gravity and magnitude in respect  
27 to their threat to the public, and that will comply with the  
28 sentencing rules that the Judicial Council may issue and  
29 any sentencing information relevant to the setting of  
30 parole release dates. If the board determines that an  
31 inmate is not suitable for parole, it shall state in writing  
32 specifically why the inmate is being denied parole, and  
33 what he or she must do to become suitable, consistent  
34 with his or her inmate performance plan. At least one  
35 commissioner of the panel shall have been present at the  
36 last preceding meeting, unless it is not feasible to do so or  
37 where the last preceding meeting was the initial meeting.  
38 Any person on the hearing panel may request review of  
39 any decision regarding parole to the full board for an en  
40 banc hearing. In case of such a review, a majority vote of



1 the full Board of Prison Terms in favor of parole is  
2 required to grant parole to any prisoner.

3 (b) The board shall set a release date if the board finds  
4 that the inmate is making satisfactory progress on his or  
5 her inmate performance plan, unless the board finds that  
6 the inmate's release would pose an unreasonable risk of  
7 danger to society, create a substantial risk that the inmate  
8 will not conform to a condition or conditions of parole, or  
9 depreciate the seriousness of the offense for which the  
10 inmate was convicted and promote disrespect of the law.  
11 The determination of suitability shall be based on the  
12 record as a whole, including any performance or  
13 psychological evaluations included in the inmate's file.  
14 The board shall specify in writing the reasons for its  
15 determination.

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

