

AMENDED IN SENATE MAY 19, 1999
AMENDED IN SENATE APRIL 26, 1999
AMENDED IN SENATE MARCH 4, 1999

SENATE BILL

No. 128

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 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 to 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. *In the case of an inmate who has*
5 *already had the meeting required by this section, the*
6 *board shall prepare an inmate performance plan at the*
7 *next regularly scheduled parole hearing or other meeting*
8 *set for that inmate.* The inmate performance plan shall
9 consist of specific requirements that the board
10 determines the inmate must meet in order to be eligible
11 for parole. These requirements may include participation
12 in educational classes, job skills training, substance abuse
13 classes, life skills classes, victim offender awareness
14 programs, or other activities that are relevant to the
15 inmate's personal and criminal history. The plan may
16 emphasize the importance of offender accountability,
17 victim restitution, and remaining free of discipline
18 problems, including abstention from involvement with
19 prison gangs or other activities that lead to rules
20 violations. The requirements shall be realistic,
21 achievable, and relevant to that inmate.

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



1 where the last preceding meeting was the initial meeting.
2 Any person on the hearing panel may request review of
3 any decision regarding parole to the full board for an en
4 banc hearing. In case of such a review, a majority vote of
5 the full Board of Prison Terms in favor of parole is
6 required to grant parole to any prisoner.

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

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

28 *SEC. 3. It is not the intent of the Legislature, in*
29 *enacting the amendments in Section 2 of this act, to*
30 *require any additional hearings for an inmate, or to*
31 *require any additional personnel than are already*
32 *assigned to perform the hearings. Rather, it is the intent*
33 *of the Legislature that those inmate performance plans*
34 *be one additional requirement in the process that is*
35 *already occurring to evaluate an inmate's suitability for*
36 *parole.*

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