

AMENDED IN SENATE APRIL 16, 2007

**SENATE BILL**

**No. 391**

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**Introduced by Senator Ducheny**

February 21, 2007

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An act to add ~~Section 1203.87~~ *Sections 1203.87, 3060.8, and 3060.9* to the Penal Code, relating to ~~prisoners~~ *prisoners corrections*.

LEGISLATIVE COUNSEL'S DIGEST

SB 391, as amended, Ducheny. ~~Prisoners-~~ *Corrections*.

Existing law generally regulates the conditions of incarceration for prisoners.

This bill would provide that any inmate who at the time of commitment to the Department of Corrections and Rehabilitation will serve at least one year, assuming receipt of all possible work credits for which he or she is eligible, shall have a risk/needs assessment completed within 90 days of commitment. The bill would provide that the purpose of the assessment would be to determine, on the basis of an evidence-based assessment tool, the risk that person may pose while incarcerated and the risk to society upon release, and the inmate's needs to reduce those risks, and would consider, at a minimum, the inmate's needs for educational, occupational, mental health, substance abuse, and life skills programming while incarcerated.

*Under existing law, the supervision, management and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment, of persons confined therein are vested in the Secretary of the Department of Corrections and Rehabilitation. Existing law sets forth the powers and the duties of the Board of Parole Hearings and the Department of Corrections and*

*Rehabilitation in connection with the parole of persons in the custody of the state prison system.*

*This bill would require the Department of Corrections and Rehabilitation, subject to the appropriation of funding in the Budget Act of 2007, and subsequent budget acts, to establish, operate, and evaluate a program, as specified, within the state parole system as determined by the Secretary for the purpose of establishing a revised approach to the supervision, sanction, and control of parolees that will result in a more cost-effective deployment of parole staff, reduced recidivism by parole violators, savings on state incarceration costs, and improved public safety.*

*The department would be required to submit to the Joint Legislative Budget Committee and the fiscal committees of both houses of the Legislature, by December 1 of each year, interim reports on the progress of the pilot projects toward implementation and initial findings regarding cost-effectiveness and performance of the program, and to submit by December 1, 2011, a report that evaluates the overall cost-effectiveness and performance of the program, as specified.*

*Existing law gives the Board of Parole Hearings the power upon granting parole to any prisoner to impose on the parole any conditions that it may deem proper. Existing law gives the Board of Parole Hearings power to suspend or revoke any parole and to order returned to prison any prisoner upon parole.*

*This bill would establish a Community Punishment Program. It would provide for participation in the program as a special condition of parole, as specified. The bill would allow the Board of Parole Hearings to assign a parolee who violates a condition of parole to the program in lieu of revocation of parole. This bill would allow the Board of Parole Hearings, as an alternative to ordering a parolee returned to custody upon revocation of parole, to suspend the period of revocation pending the parolee's successful completion of community punishment.*

*This bill would impose various requirements in connection with the program.*

*This bill would require the Department of Corrections and Rehabilitation, in consultation with the Board of Parole Hearings and the Legislative Analyst's Office, to contract with an independent consultant to evaluate the effect of the program on several factors and report the results to the Legislature on or before January 1, 2011. Until that date, the Department of Corrections and Rehabilitation and the Board of Parole Hearings would be required to annually report to the*

*Legislature, beginning December 1, 2008, regarding the status of implementation of the program and the number of offenders assigned and participating in the programs in the preceding fiscal year.*

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 1203.87 is added to the Penal Code, to  
2 read:

3 1203.87. Any inmate who at the time of commitment to the  
4 Department of Corrections and Rehabilitation will serve at least  
5 one year, assuming receipt of all possible work credits for which  
6 he or she is eligible, shall have a risk/needs assessment completed  
7 within 90 days of commitment. The purpose of the assessment is  
8 to determine, on the basis of an evidence-based assessment tool,  
9 the risk that person may pose while incarcerated and the risk to  
10 society upon release, and the inmate's needs to reduce those risks.  
11 The assessment shall consider, at a minimum, the inmate's needs  
12 for educational, occupational, mental health, substance abuse, and  
13 life skills programming while incarcerated.

14 SEC. 2. Section 3060.8 is added to the Penal Code, to read:

15 3060.8. (a) *Subject to the appropriation of funding, as provided*  
16 *in the Budget Act of 2007, and subsequent budget acts, the*  
17 *Department of Corrections and Rehabilitation shall establish,*  
18 *operate, and evaluate a statewide program within the state parole*  
19 *system as determined by the Secretary of the Department of*  
20 *Corrections and Rehabilitation for the purpose of establishing a*  
21 *revised approach to the supervision, sanction, and control of*  
22 *parolees that will result in a more cost-effective deployment of*  
23 *parole staff, reduced recidivism by parole violators, savings on*  
24 *state incarceration costs, and improved public safety. To the extent*  
25 *that it is feasible and practical, the program shall include, but not*  
26 *be limited to, the following elements:*

27 (1) *A task-structured parole supervision model that will test the*  
28 *assignment of some parole agent activities according to functional*  
29 *specialties, the organization of parole units into supervision teams,*  
30 *the assignment of workload on the basis of task-specific time lines*  
31 *in place of the existing caseload point system, and the assignment*  
32 *of Parole Service Associates and other nonparole agent staff for*

1 *certain functions, and that will implement other changes in the*  
2 *parole supervision operations. The purpose of the parole model*  
3 *is to increase the total number of contacts between parolees and*  
4 *parole staff while concentrating staff resources on those parolees*  
5 *deemed to pose the highest risk to public safety.*

6 *(2) This model may include the imposition of graduated*  
7 *intermediate sanctions of parole violators that will, for an*  
8 *appropriate group of parolees, test the approach of using programs*  
9 *such as day-reporting centers, substance abuse treatment units,*  
10 *community service, and other punishment options as an alternative*  
11 *to revocation of parole and return to prison of parole violators.*  
12 *The purpose of the new graduated intermediate sanctions model*  
13 *is to ensure a rapid and certain response to parole violations, or*  
14 *to parolee behavior that indicates a risk of parole violations, by*  
15 *using the least restrictive alternative that will ensure public safety.*

16 *(3) The establishment and operation of nonresidential day*  
17 *reporting centers that will assist parolees in their reintegration*  
18 *into society, maximize the supervision of certain parolees who*  
19 *require closer supervision, and provide an additional punishment*  
20 *option for parole violators when such a punishment is deemed*  
21 *appropriate and will ensure public safety. Notwithstanding any*  
22 *other law, the Department of Corrections and Rehabilitation is*  
23 *authorized to contract with one or more vendors to supervise,*  
24 *treat, and provide services to parolees assigned to the day*  
25 *reporting center, including, but not limited to, such services as*  
26 *substance abuse treatment, cognitive skill training, domestic*  
27 *violence prevention education and treatment, anger management,*  
28 *parenting skills, community service programs, and educational*  
29 *and employment services.*

30 *(b) The Department of Corrections and Rehabilitation shall*  
31 *coordinate and consult with the parole authority during the*  
32 *development and subsequent operation of the program, and in*  
33 *particular shall be consulted by the department on an ongoing*  
34 *basis in regard to (1) the development and implementation of*  
35 *graduated integrated sanctions for parole violators and (2) the*  
36 *evaluation of the results of the program.*

37 *(c) The Department of Corrections and Rehabilitation shall, by*  
38 *December 1, 2011, submit to the Joint Legislative Budget*  
39 *Committee and the fiscal committees of both houses of the*  
40 *Legislature a report that evaluates the overall cost effectiveness*

1 *and performance of the program. The department shall provide*  
2 *to the same legislative committees interim reports on the progress*  
3 *toward implementation of the program, and any initial findings*  
4 *regarding its cost effectiveness and performance, by December 1*  
5 *of 2008, 2009, and 2010. The final evaluation report shall be*  
6 *prepared in consultation with an independent contractor with*  
7 *expertise in the evaluation of criminal justice programs and shall*  
8 *include, but not be limited to, the following items:*

9 *(1) To the extent feasible and practical, a statistically valid*  
10 *analysis of the impact of the program upon the recidivism rate of*  
11 *parolees within the parole units selected, with a comparison to*  
12 *appropriate and similar classes of parolees prior to implementation*  
13 *of the program. To the extent feasible and practical, measures of*  
14 *recidivism should include revocations and removals from parole*  
15 *as well as new law violations by parolees, and shall include an*  
16 *examination of the frequency and severity of parole violations and*  
17 *new law violations. The report shall estimate the net additional*  
18 *cost or savings to the state, including the costs of operating the*  
19 *program except for evaluation costs, and incarceration costs for*  
20 *parole violators and parolees recommitted to prison by the courts,*  
21 *which resulted from the operation of the program.*

22 *(2) An assessment of how implementation of the program has*  
23 *affected the number and the nature of contacts between parole*  
24 *unit staff and parolees generally and for specific groups of parolees*  
25 *according to their parole classification. The report shall also*  
26 *describe and assess the graduated intermediate sanctions that*  
27 *were implemented, the number of parolees subjected to these*  
28 *sanctions, and whether the sanctions were implemented consistently*  
29 *and appropriately.*

30 *(3) An assessment of how implementation of the program has*  
31 *affected parole unit operations. The report shall assess the cost*  
32 *effectiveness of assigning Parole Service Associates and other*  
33 *nonparole agent staff to certain functions and the cost effectiveness*  
34 *of assignment of parole supervision functions to specialists*  
35 *operating in teams. The report shall assess the impact of the*  
36 *program upon the morale and stability of the parole unit staff, and*  
37 *shall review what impact if any the program has had on staff*  
38 *vacancies and turnover rates in the parole system.*

39 *(4) The report shall describe and assess the functions and*  
40 *services provided at the centers, the number of parolees receiving*

1 particular types of services, and the effect of those services on the  
2 employment, educational levels, and recidivism of parolees  
3 assigned to the day reporting centers.

4 SEC. 3. Section 3060.9 is added to the Penal Code, to read:

5 3060.9. (a) There is hereby created within the Department of  
6 Corrections and Rehabilitation a Community Punishment Program.  
7 The purpose of the program is to improve the rehabilitation of  
8 parolees, reduce recidivism, reduce prison overcrowding, and  
9 improve public safety through the use of intermediate sanctions  
10 for low-level offenders who violate parole with an emphasis on  
11 short term commitments.

12 (b) For purposes of this section, the Community Punishment  
13 Program includes, but is not limited to, the following:

14 (1) Counseling.

15 (2) Electronic monitoring.

16 (3) Half-way house services.

17 (4) Home detention.

18 (5) Intensive supervision.

19 (6) Mandatory community service assignments.

20 (7) Increased drug testing.

21 (8) Participation in one or more components of the Preventing  
22 Parolee Crime Program pursuant to Section 3068.

23 (9) Rehabilitation programs, such as substance abuse treatment.

24 (10) Restitution.

25 (c) As used in this section:

26 (1) "Department" means the Department of Corrections and  
27 Rehabilitation.

28 (2) "Parole authority" means the Board of Parole Hearings.

29 (d) The department and the parole authority may assign to the  
30 Community Punishment Program those lower-risk offenders who  
31 would otherwise be returned to custody for a parole violation.  
32 This section shall not alter the existing discretion of the parole  
33 authority regarding the reporting by the department of parole  
34 violations or conditions of parole. In exercising its authority  
35 pursuant to paragraphs (2) and (3) of subdivision (e) and  
36 subdivision (f), the parole authority and the department in  
37 exercising its authority pursuant to paragraph (1) of subdivision  
38 (e) may determine an individual parolee's eligibility for a  
39 community punishment program by considering the totality of the  
40 circumstances including, but not limited to, the instant violation

1 offense, the history of parole adjustment, current commitment  
2 offense, the risk needs assessment of the offender, and prior  
3 criminal history, with public safety and offender accountability as  
4 primary considerations.

5 (e) (1) Subject to paragraph (5) of subdivision (b) of Section  
6 3000, and Section 3060.7, and the provisions of this section, the  
7 department may establish a special condition of parole to  
8 participate in the Community Punishment Program established  
9 by this section. If the parolee refuses to agree to this special  
10 condition of parole, the department may report the case to the  
11 parole authority for revocation of parole.

12 (2) Subject to the provisions of this section, the parole authority,  
13 in the absence of a new conviction and commitment of the parolee  
14 to the state prison under other provisions of law, may assign a  
15 parolee who violates a condition of his or her parole to the  
16 Community Punishment Program in lieu of revocation of parole.

17 (3) In addition to the alternatives provided in this section, the  
18 parole authority may, as an alternative to ordering a revoked  
19 parolee returned to custody, suspend the period of revocation  
20 pending the parolee's successful completion of the Community  
21 Punishment Program assigned by the parole authority.

22 (4) The parole authority or the department shall not assign a  
23 parolee who has been classified by the department as included  
24 within the highest control or risk classification to the Community  
25 Punishment Program in lieu of revocation of parole.

26 (5) The parole authority shall not assign a parolee to the  
27 Community Punishment Program in lieu of revocation of parole  
28 when the parole authority has determined that the violation of the  
29 condition of parole involves commission of a serious felony, as  
30 defined in subdivision (c) of Section 1192.7, or a violent felony,  
31 as defined in subdivision (c) of Section 667.5, or involves the  
32 control of, access to, or use of a weapon.

33 (6) The department shall not establish a special condition of  
34 parole, assigning a parolee to the Community Punishment Program  
35 in lieu of initiating revocation proceedings if the department  
36 reasonably believes that the violation of the condition of parole  
37 involves commission of a serious felony, as defined in subdivision  
38 (c) of Section 1192.7, or a violent felony, as defined in subdivision  
39 (c) of Section 667.5, or involves the control of, access to, or use

1 *of a weapon, or if regulations adopted by the parole authority*  
2 *require the reporting of the parole violation to the parole authority.*

3 *(f) A special condition of parole imposed pursuant to paragraph*  
4 *(1) of subdivision (e) to participate in the Community Punishment*  
5 *Program consisting of a live-in program, home detention,*  
6 *electronic monitoring, or half-way house services shall not be*  
7 *established without a hearing by the parole authority in accordance*  
8 *with Sections 3004 and 3068 and regulations of the parole*  
9 *authority. A special condition of parole providing an assignment*  
10 *to the Community Punishment Program as otherwise specified in*  
11 *paragraph (1) of subdivision (b) may be established without a*  
12 *hearing.*

13 *(g) Implementation of this section by the department is subject*  
14 *to the appropriation of funding for this purpose as provided in the*  
15 *Budget Act of 2007, and subsequent budget acts.*

16 *(h) The department, in consultation with the parole authority*  
17 *and the Legislative Analyst's Office, shall, contingent upon funding,*  
18 *contract with an independent consultant to conduct an evaluation*  
19 *regarding the effect of the Community Punishment Program on*  
20 *public safety, parolee recidivism, and prison and parole costs and*  
21 *report the results to the Legislature on or before January 1, 2011.*  
22 *Until that date, the department and parole authority shall jointly*  
23 *report annually to the Legislature, beginning December 1, 2008,*  
24 *regarding the status of implementation of the Community*  
25 *Punishment Program and the number of offenders assigned and*  
26 *participating in the program in the preceding fiscal year.*