

**Senate Bill No. 391**

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Passed the Senate September 6, 2007

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*Secretary of the Senate*

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Passed the Assembly September 5, 2007

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2007, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Sections 3060.9, 3069, and 3069.5 to the Penal Code, relating to corrections.

## LEGISLATIVE COUNSEL'S DIGEST

SB 391, Ducheny. Corrections.

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 authorize the Department of Corrections and Rehabilitation to expand the use of parole programs or services. It would allow the department or the Board of Parole Hearings, with respect to a parolee who violates a condition of parole and who meets specified criteria, to assign the parolee to a parole program or service, in lieu of revoking his or her 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 the specified parole program or service.

This bill would impose various requirements in connection with the parole programs or services.

This bill would require the Department of Corrections and Rehabilitation, in consultation with the Legislative Analyst's Office, to evaluate the effect of the expansion of parole programs or services on several factors and report the results to the Legislature 3 years after funding is provided, as specified. 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 January 1, 2009, regarding the status of the expansion of parole programs or services and the number of offenders assigned and participating in parole programs or services in the preceding fiscal year.

This bill would authorize the department to create a Parole Violation Intermediate Sanctions program. The bill would authorize certain eligible parolees who would otherwise be referred to the

Board of Parole Hearings for revocation of parole and returned to prison for a violation of parole to be admitted to the program in lieu of revocation, as specified. The program would be modeled after a collaborative court system, including a hearing officer, frequent appearances in the program by the parolee, requirements that the parolee attend treatment or rehabilitation programs, coordination between the hearing officer, parole agents, and representatives from the treatment and rehabilitation programs, and sanctions for the parolee upon failure in the program.

This bill would require the department, in consultation with the Legislative Analyst's Office, to report to the Legislature on the effectiveness of the Parole Violation Intermediate Sanctions program, as specified.

*The people of the State of California do enact as follows:*

SECTION 1. Section 3060.9 is added to the Penal Code, to read:

3060.9. (a) The Department of Corrections and Rehabilitation is hereby authorized to expand the use of parole programs or services to improve the rehabilitation of parolees, reduce recidivism, reduce prison overcrowding, and improve public safety through the following:

(1) The use of intermediate sanctions for offenders who commit a violation of parole.

(2) The use of parole programs or services, in addition to supervision, for any offender who is in need of services to reduce the parolee's likelihood to reoffend.

(b) For purposes of this section, the expansion of parole programs or services may include, but shall not be limited to, the following:

(1) Counseling.

(2) Electronic monitoring.

(3) Halfway house services.

(4) Home detention.

(5) Intensive supervision.

(6) Mandatory community service assignments.

(7) Increased drug testing.

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

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

(10) Restitution.

(c) As used in this section:

(1) “Department” means the Department of Corrections and Rehabilitation.

(2) “Parole authority” means the Board of Parole Hearings.

(d) The department or the parole authority may assign the programs or services specified in subdivision (b) to offenders who meet the criteria of paragraph (1) or (2). This section shall not alter the existing discretion of the parole authority regarding the reporting by the department of parole violations or conditions of parole. In exercising its authority pursuant to paragraphs (2) and (3) of subdivision (e) and subdivision (f), the parole authority or the department in exercising its authority pursuant to paragraph (1) of subdivision (e) may determine an individual parolee’s eligibility for parole programs or services by considering the totality of the circumstances including, but not limited to, the instant violation offense, the history of parole adjustment, current commitment offense, the risk needs assessment of the offender, and prior criminal history, with public safety and offender accountability as primary considerations.

(e) (1) Subject to the provisions of this section, the parole authority, in the absence of a new conviction and commitment of the parolee to the state prison under other provisions of law, may assign a parolee who violates a condition of his or her parole to parole programs or services in lieu of revocation of parole.

(2) In addition to the alternatives provided in this section, the parole authority may, as an alternative to ordering a revoked parolee returned to custody, suspend the period of revocation pending the parolee’s successful completion of parole programs or services assigned by the parole authority.

(3) The department shall not establish a special condition of parole, assigning a parolee to parole programs or services in lieu of initiating revocation proceedings, if the department reasonably believes that the violation of the condition of parole involves commission of a serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, or involves the control or use of a firearm.

(f) A special condition of parole imposed pursuant to this section to participate in residential programs shall not be established

without a hearing by the parole authority in accordance with Section 3068 and regulations of the parole authority. A special condition of parole providing an assignment to a parole program or service that does not consist of a residential component may be established without a hearing.

(g) Expansion of parole programs or services pursuant to this section by the department is subject to the appropriation of funding for this purpose as provided in the Budget Act of 2007, and subsequent budget acts.

(h) The department, in consultation with the Legislative Analyst's Office, shall, contingent upon funding, conduct an evaluation regarding the effect of parole programs or services on public safety, parolee recidivism, and prison and parole costs and report the results to the Legislature three years after funding is provided pursuant to subdivision (g). Until that date, the department shall report annually to the Legislature, beginning January 1, 2009, regarding the status of the expansion of parole programs or services and the number of offenders assigned and participating in parole programs or services in the preceding fiscal year.

SEC. 2. Section 3069 is added to the Penal Code, to read:

3069. (a) The Department of Corrections and Rehabilitation is hereby authorized to create the Parole Violation Intermediate Sanctions (PVIS) program. The purpose of the program shall be to improve the rehabilitation of parolees, reduce recidivism, reduce prison overcrowding, and improve public safety through the use of intermediate sanctions for offenders who violate parole. The PVIS program will allow the department to provide parole agents an early opportunity to intervene with parolees who are not in compliance with the conditions of parole and facing return to prison. The program will include key components used by drug and collaborative courts under a highly structured model, including close supervision and monitoring by a hearing officer, dedicated calendars, nonadversarial proceedings, frequent appearances before the hearing officer, utilization of incentives and sanctions, frequent drug and alcohol testing, immediate entry into treatment and rehabilitation programs, and close collaboration between the program, parole, and treatment to improve offender outcomes. The program shall be local and community based.

(b) As used in this section:

(1) “Department” means the Department of Corrections and Rehabilitation.

(2) “Parole authority” means the Board of Parole Hearings.

(3) “Program” means the Parole Violation Intermediate Sanctions program.

(c) (1) A parolee who is deemed eligible by the department to participate in this program, and who would otherwise be referred to the parole authority to have his or her parole revoked for a parole violation shall be referred by his or her parole officer for participation in the program in lieu of parole revocation.

(2) If the alleged violation of parole involves the commission of a serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, or involves the control or use of a firearm, the parolee shall not be eligible for referral to the program in lieu of revocation of parole.

(d) The department is authorized to establish local PVIS programs. Each local program may have, but shall not be limited to, the following characteristics:

(1) An assigned hearing officer who is a retired superior court judge or commissioner and who is experienced in using the drug court model and collaborative court model.

(2) The use of a dedicated calendar.

(3) Close coordination between the hearing officer, department, counsel, community treatment and rehabilitation programs participating in the program and adherence to a team approach in working with parolees.

(4) Enhanced accountability through the use of frequent program appearances by parolees in the program, at least one per month, with more frequent appearances in the time period immediately following the initial referral to the program and thereafter in the discretion of the hearing officer.

(5) Reviews of progress by the parolee as to his or her treatment and rehabilitation plan and abstinence from the use of drugs and alcohol through progress reports provided by the parole agent as well as all treatment and rehabilitation providers.

(6) Mandatory frequent drug and alcohol testing.

(7) Graduated in-custody sanctions may be imposed after a hearing in which it is found the parolee failed treatment and rehabilitation programs or continued in the use of drugs or alcohol while in the program.

(8) A problemsolving focus and team approach to decisionmaking.

(9) Direct interaction between the parolee and the hearing officer.

(10) Accessibility of the hearing officer to parole agents and parole employees as well as treatment and rehabilitation providers.

(e) Upon successful completion of the program, the parolee shall continue on parole, or be granted other relief as shall be determined in the sole discretion of the department or as authorized by law.

(f) The department is authorized to develop the programs. The parole authority is directed to convene in each county where the programs are selected to be established, all local stakeholders, including, but not limited to, a retired superior court judge or commissioner, designated by the Administrative Office of the Courts, who shall be compensated by the department at the present rate of pay for retired judges and commissioners, local parole agents and other parole employees, the district attorney, the public defender, an attorney actively representing parolees in the county and a private defense attorney designated by the public defenders association, the county director of alcohol and drug services, behavioral health, mental health, and any other local stakeholders deemed appropriate. Specifically, persons directly involved in the areas of substance abuse treatment, cognitive skills development, education, life skills, vocational training and support, victim impact awareness, anger management, family reunification, counseling, residential care, placement in affordable housing, employment development and placement are encouraged to be included in the meeting.

(g) The department, in consultation with local stakeholders, shall develop a plan that is consistent with this section. The plan shall address at a minimum the following components:

(1) The method by which each parolee eligible for the program shall be referred to the program.

(2) The method by which each parolee is to be individually assessed as to his or her treatment and rehabilitative needs and level of community and court monitoring required, participation of counsel, and the development of a treatment and rehabilitation plan for each parolee.

(3) The specific treatment and rehabilitation programs that will be made available to the parolees and the process to ensure that they receive the appropriate level of treatment and rehabilitative services.

(4) The criteria for continuing participation in, and successful completion of, the program, as well as the criteria for termination from the program and return to the parole revocation process.

(5) The development of a program team, as well as a plan for ongoing training in utilizing the drug court and collaborative court nonadversarial model.

(h) (1) If a parolee is referred to the program by his or her parole agent, as specified in this section, the hearing officer in charge of the local program to which the parolee is referred shall determine whether the parolee will be admitted to the program.

(2) A parolee may be excluded from admission to the program if the hearing officer determines that the parolee poses a risk to the community or would not benefit from the program. The hearing officer may consider the history of the offender, the nature of the committing offense, and the nature of the violation. The hearing officer shall state its findings, and the reasons for those findings, on the record.

(3) If the hearing officer agrees to admit the parolee into the program, any pending parole revocation proceedings shall be suspended contingent upon successful completion of the program as determined by the program hearing officer.

(i) A special condition of parole imposed as a condition of admission into the program consisting of a residential program shall not be established without a hearing in front of the hearing officer in accordance with Section 3068 and regulations of the parole authority. A special condition of parole providing an admission to the program that does not consist of a residential component may be established without a hearing.

(j) Implementation of this section by the department is subject to the appropriation of funding for this purpose as provided in the Budget Act of 2008, and subsequent budget acts.

SEC. 3. Section 3069.5 is added to the Penal Code, to read:

3069.5. (a) The department, in consultation with the Legislative Analyst's Office, shall, contingent upon funding, conduct an evaluation of the PVIS program.

(b) A final report shall be due to the Legislature three years after funding is provided pursuant to subdivision (h) of Section 3069. Until that date, the department shall report annually to the Legislature, beginning January 1, 2009, regarding the status of implementation of the PVIS program and the number of offenders assigned and participating in the program in the preceding fiscal year.













Approved \_\_\_\_\_, 2007

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*Governor*