

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1449**

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**Introduced by Assembly Member V. Manuel Pérez**  
*(Coauthors: Assembly Members Alejo, Roger Hernández, Muratsuchi,*  
*and Rodríguez)*

January 7, 2014

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An act to amend Sections 1170, 3000.08, ~~3451~~, and ~~3455~~ and *3451* of the Penal Code, relating to punishment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1449, as amended, V. Manuel Pérez. Realignment Omnibus Act of 2014.

(1) Under existing law, certain specified felonies are punishable by imprisonment in a county jail for 16 months, or 2 or 3 years or, where the term is specified, for the term described in the underlying offense. Notwithstanding these provisions, existing law requires that a sentence be served in state prison where the defendant has a prior or current conviction for a serious or violent felony, has a prior felony conviction in another jurisdiction that has all of the elements of a serious or violent felony, is required to register as a sex offender, or has an aggravated white collar crime enhancement imposed as part of the sentence.

This bill would additionally require a sentence to be served in the state prison when the defendant is convicted of a felony or felonies otherwise punishable in a county jail and is sentenced to an aggregate term of more than ~~3~~ 7 years.

(2) Existing law requires that all persons released from prison after serving a prison term for a felony, be subject to postrelease community supervision provided by a county agency for a period of 3 years

immediately following release, except for persons released after serving a term for a serious felony, a violent felony, an offense for which the person was sentenced pursuant to the 3 strikes law, a crime where the person is classified as a high-risk sex offender, or a crime where the person is required to undergo treatment by the State Department of State Hospitals because the person has a severe mental disorder. Existing law requires these persons to be subject to parole supervision by the Department of Corrections and Rehabilitation following release from state prison and the jurisdiction of the court in the county in which the parolee is released, resides, or in which an alleged violation of supervision has occurred.

This bill would also require any person who is released from prison who has a prior conviction for any of the above crimes to be subject to parole supervision by the department and the jurisdiction of the court in the county in which the parolee is released, resides, or in which an alleged violation of supervision has occurred.

~~(3) Existing law, the Postrelease Community Supervision Act of 2011, requires certain inmates released from state prison to be subject to 3 years of supervision by a county agency. The act provides that if the supervising county agency has determined, following application of its assessment processes, that authorized intermediate sanctions are not appropriate, the supervising county agency is required to petition the revocation hearing officer to revoke and terminate postrelease supervision of the inmate. Existing law allows the revocation hearing officer to order the person to confinement in a county jail for a period not to exceed 180 days, among other sanctions.~~

~~This bill would, if the person has been found to have violated the conditions of postrelease community supervision on 2 or more prior occasions, allow the revocation hearing officer to revoke and terminate postrelease community supervision and order the person to confinement in the state prison for a period of one year.~~

*This bill would become operative only if the federal court order dated February 10, 2014, requiring prison bed capacity to be at 137.5% of design capacity by February 28, 2016, has been fully complied with on or before February 28, 2016.*

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. This act shall be known, and may be cited as, the  
2 Realignment Omnibus Act of 2014.

3 SEC. 2. Section 1170 of the Penal Code, as amended by Section  
4 5 of Chapter 508 of the Statutes of 2013, is amended to read:

5 1170. (a) (1) The Legislature finds and declares that the  
6 purpose of imprisonment for crime is punishment. This purpose  
7 is best served by terms proportionate to the seriousness of the  
8 offense with provision for uniformity in the sentences of offenders  
9 committing the same offense under similar circumstances. The  
10 Legislature further finds and declares that the elimination of  
11 disparity and the provision of uniformity of sentences can best be  
12 achieved by determinate sentences fixed by statute in proportion  
13 to the seriousness of the offense as determined by the Legislature  
14 to be imposed by the court with specified discretion.

15 (2) Notwithstanding paragraph (1), the Legislature further finds  
16 and declares that programs should be available for inmates,  
17 including, but not limited to, educational programs, that are  
18 designed to prepare nonviolent felony offenders for successful  
19 reentry into the community. The Legislature encourages the  
20 development of policies and programs designed to educate and  
21 rehabilitate nonviolent felony offenders. In implementing this  
22 section, the Department of Corrections and Rehabilitation is  
23 encouraged to give priority enrollment in programs to promote  
24 successful return to the community to an inmate with a short  
25 remaining term of commitment and a release date that would allow  
26 him or her adequate time to complete the program.

27 (3) In any case in which the punishment prescribed by statute  
28 for a person convicted of a public offense is a term of imprisonment  
29 in the state prison of any specification of three time periods, the  
30 court shall sentence the defendant to one of the terms of  
31 imprisonment specified unless the convicted person is given any  
32 other disposition provided by law, including a fine, jail, probation,  
33 or the suspension of imposition or execution of sentence or is  
34 sentenced pursuant to subdivision (b) of Section 1168 because he  
35 or she had committed his or her crime prior to July 1, 1977. In  
36 sentencing the convicted person, the court shall apply the  
37 sentencing rules of the Judicial Council. The court, unless it  
38 determines that there are circumstances in mitigation of the

1 punishment prescribed, shall also impose any other term that it is  
2 required by law to impose as an additional term. Nothing in this  
3 article shall affect any provision of law that imposes the death  
4 penalty, that authorizes or restricts the granting of probation or  
5 suspending the execution or imposition of sentence, or expressly  
6 provides for imprisonment in the state prison for life, except as  
7 provided in paragraph (2) of subdivision (d). In any case in which  
8 the amount of preimprisonment credit under Section 2900.5 or any  
9 other provision of law is equal to or exceeds any sentence imposed  
10 pursuant to this chapter, the entire sentence shall be deemed to  
11 have been served and the defendant shall not be actually delivered  
12 to the custody of the secretary. The court shall advise the defendant  
13 that he or she shall serve a period of parole and order the defendant  
14 to report to the parole office closest to the defendant's last legal  
15 residence, unless the in-custody credits equal the total sentence,  
16 including both confinement time and the period of parole. The  
17 sentence shall be deemed a separate prior prison term under Section  
18 667.5, and a copy of the judgment and other necessary  
19 documentation shall be forwarded to the secretary.

20 (b) When a judgment of imprisonment is to be imposed and the  
21 statute specifies three possible terms, the choice of the appropriate  
22 term shall rest within the sound discretion of the court. At least  
23 four days prior to the time set for imposition of judgment, either  
24 party or the victim, or the family of the victim if the victim is  
25 deceased, may submit a statement in aggravation or mitigation. In  
26 determining the appropriate term, the court may consider the record  
27 in the case, the probation officer's report, other reports, including  
28 reports received pursuant to Section 1203.03, and statements in  
29 aggravation or mitigation submitted by the prosecution, the  
30 defendant, or the victim, or the family of the victim if the victim  
31 is deceased, and any further evidence introduced at the sentencing  
32 hearing. The court shall select the term which, in the court's  
33 discretion, best serves the interests of justice. The court shall set  
34 forth on the record the reasons for imposing the term selected and  
35 the court may not impose an upper term by using the fact of any  
36 enhancement upon which sentence is imposed under any provision  
37 of law. A term of imprisonment shall not be specified if imposition  
38 of sentence is suspended.

39 (c) The court shall state the reasons for its sentence choice on  
40 the record at the time of sentencing. The court shall also inform

1 the defendant that as part of the sentence after expiration of the  
2 term he or she may be on parole for a period as provided in Section  
3 3000.

4 (d) (1) When a defendant subject to this section or subdivision  
5 (b) of Section 1168 has been sentenced to be imprisoned in the  
6 state prison and has been committed to the custody of the secretary,  
7 the court may, within 120 days of the date of commitment on its  
8 own motion, or at any time upon the recommendation of the  
9 secretary or the Board of Parole Hearings, recall the sentence and  
10 commitment previously ordered and resentence the defendant in  
11 the same manner as if he or she had not previously been sentenced,  
12 provided the new sentence, if any, is no greater than the initial  
13 sentence. The court resentencing under this subdivision shall apply  
14 the sentencing rules of the Judicial Council so as to eliminate  
15 disparity of sentences and to promote uniformity of sentencing.  
16 Credit shall be given for time served.

17 (2) (A) (i) When a defendant who was under 18 years of age  
18 at the time of the commission of the offense for which the  
19 defendant was sentenced to imprisonment for life without the  
20 possibility of parole has served at least 15 years of that sentence,  
21 the defendant may submit to the sentencing court a petition for  
22 recall and resentencing.

23 (ii) Notwithstanding clause (i), this paragraph shall not apply  
24 to defendants sentenced to life without parole for an offense where  
25 the defendant tortured, as described in Section 206, his or her  
26 victim or the victim was a public safety official, including any law  
27 enforcement personnel mentioned in Chapter 4.5 (commencing  
28 with Section 830) of Title 3, or any firefighter as described in  
29 Section 245.1, as well as any other officer in any segment of law  
30 enforcement who is employed by the federal government, the state,  
31 or any of its political subdivisions.

32 (B) The defendant shall file the original petition with the  
33 sentencing court. A copy of the petition shall be served on the  
34 agency that prosecuted the case. The petition shall include the  
35 defendant's statement that he or she was under 18 years of age at  
36 the time of the crime and was sentenced to life in prison without  
37 the possibility of parole, the defendant's statement describing his  
38 or her remorse and work towards rehabilitation, and the defendant's  
39 statement that one of the following is true:

- 1 (i) The defendant was convicted pursuant to felony murder or  
2 aiding and abetting murder provisions of law.
- 3 (ii) The defendant does not have juvenile felony adjudications  
4 for assault or other felony crimes with a significant potential for  
5 personal harm to victims prior to the offense for which the sentence  
6 is being considered for recall.
- 7 (iii) The defendant committed the offense with at least one adult  
8 codefendant.
- 9 (iv) The defendant has performed acts that tend to indicate  
10 rehabilitation or the potential for rehabilitation, including, but not  
11 limited to, availing himself or herself of rehabilitative, educational,  
12 or vocational programs, if those programs have been available at  
13 his or her classification level and facility, using self-study for  
14 self-improvement, or showing evidence of remorse.
- 15 (C) If any of the information required in subparagraph (B) is  
16 missing from the petition, or if proof of service on the prosecuting  
17 agency is not provided, the court shall return the petition to the  
18 defendant and advise the defendant that the matter cannot be  
19 considered without the missing information.
- 20 (D) A reply to the petition, if any, shall be filed with the court  
21 within 60 days of the date on which the prosecuting agency was  
22 served with the petition, unless a continuance is granted for good  
23 cause.
- 24 (E) If the court finds by a preponderance of the evidence that  
25 the statements in the petition are true, the court shall hold a hearing  
26 to consider whether to recall the sentence and commitment  
27 previously ordered and to resentence the defendant in the same  
28 manner as if the defendant had not previously been sentenced,  
29 provided that the new sentence, if any, is not greater than the initial  
30 sentence. Victims, or victim family members if the victim is  
31 deceased, shall retain the rights to participate in the hearing.
- 32 (F) The factors that the court may consider when determining  
33 whether to recall and resentence include, but are not limited to,  
34 the following:
  - 35 (i) The defendant was convicted pursuant to felony murder or  
36 aiding and abetting murder provisions of law.
  - 37 (ii) The defendant does not have juvenile felony adjudications  
38 for assault or other felony crimes with a significant potential for  
39 personal harm to victims prior to the offense for which the sentence  
40 is being considered for recall.

1 (iii) The defendant committed the offense with at least one adult  
2 codefendant.

3 (iv) Prior to the offense for which the sentence is being  
4 considered for recall, the defendant had insufficient adult support  
5 or supervision and had suffered from psychological or physical  
6 trauma, or significant stress.

7 (v) The defendant suffers from cognitive limitations due to  
8 mental illness, developmental disabilities, or other factors that did  
9 not constitute a defense, but influenced the defendant's  
10 involvement in the offense.

11 (vi) The defendant has performed acts that tend to indicate  
12 rehabilitation or the potential for rehabilitation, including, but not  
13 limited to, availing himself or herself of rehabilitative, educational,  
14 or vocational programs, if those programs have been available at  
15 his or her classification level and facility, using self-study for  
16 self-improvement, or showing evidence of remorse.

17 (vii) The defendant has maintained family ties or connections  
18 with others through letter writing, calls, or visits, or has eliminated  
19 contact with individuals outside of prison who are currently  
20 involved with crime.

21 (viii) The defendant has had no disciplinary actions for violent  
22 activities in the last five years in which the defendant was  
23 determined to be the aggressor.

24 (G) The court shall have the discretion to recall the sentence  
25 and commitment previously ordered and to resentence the  
26 defendant in the same manner as if the defendant had not  
27 previously been sentenced, provided that the new sentence, if any,  
28 is not greater than the initial sentence. The discretion of the court  
29 shall be exercised in consideration of the criteria in subparagraph  
30 (B). Victims, or victim family members if the victim is deceased,  
31 shall be notified of the resentencing hearing and shall retain their  
32 rights to participate in the hearing.

33 (H) If the sentence is not recalled, the defendant may submit  
34 another petition for recall and resentencing to the sentencing court  
35 when the defendant has been committed to the custody of the  
36 department for at least 20 years. If recall and resentencing is not  
37 granted under that petition, the defendant may file another petition  
38 after having served 24 years. The final petition may be submitted,  
39 and the response to that petition shall be determined, during the  
40 25th year of the defendant's sentence.

1 (I) In addition to the criteria in subparagraph (F), the court may  
2 consider any other criteria that the court deems relevant to its  
3 decision, so long as the court identifies them on the record,  
4 provides a statement of reasons for adopting them, and states why  
5 the defendant does or does not satisfy the criteria.

6 (J) This subdivision shall have retroactive application.

7 (e) (1) Notwithstanding any other law and consistent with  
8 paragraph (1) of subdivision (a), if the secretary or the Board of  
9 Parole Hearings or both determine that a prisoner satisfies the  
10 criteria set forth in paragraph (2), the secretary or the board may  
11 recommend to the court that the prisoner's sentence be recalled.

12 (2) The court shall have the discretion to resentence or recall if  
13 the court finds that the facts described in subparagraphs (A) and  
14 (B) or subparagraphs (B) and (C) exist:

15 (A) The prisoner is terminally ill with an incurable condition  
16 caused by an illness or disease that would produce death within  
17 six months, as determined by a physician employed by the  
18 department.

19 (B) The conditions under which the prisoner would be released  
20 or receive treatment do not pose a threat to public safety.

21 (C) The prisoner is permanently medically incapacitated with  
22 a medical condition that renders him or her permanently unable  
23 to perform activities of basic daily living, and results in the prisoner  
24 requiring 24-hour total care, including, but not limited to, coma,  
25 persistent vegetative state, brain death, ventilator-dependency, loss  
26 of control of muscular or neurological function, and that  
27 incapacitation did not exist at the time of the original sentencing.

28 The Board of Parole Hearings shall make findings pursuant to  
29 this subdivision before making a recommendation for resentence  
30 or recall to the court. This subdivision does not apply to a prisoner  
31 sentenced to death or a term of life without the possibility of parole.

32 (3) Within 10 days of receipt of a positive recommendation by  
33 the secretary or the board, the court shall hold a hearing to consider  
34 whether the prisoner's sentence should be recalled.

35 (4) Any physician employed by the department who determines  
36 that a prisoner has six months or less to live shall notify the chief  
37 medical officer of the prognosis. If the chief medical officer  
38 concurs with the prognosis, he or she shall notify the warden.  
39 Within 48 hours of receiving notification, the warden or the  
40 warden's representative shall notify the prisoner of the recall and

1 resentencing procedures, and shall arrange for the prisoner to  
2 designate a family member or other outside agent to be notified  
3 as to the prisoner's medical condition and prognosis, and as to the  
4 recall and resentencing procedures. If the inmate is deemed  
5 mentally unfit, the warden or the warden's representative shall  
6 contact the inmate's emergency contact and provide the information  
7 described in paragraph (2).

8 (5) The warden or the warden's representative shall provide the  
9 prisoner and his or her family member, agent, or emergency  
10 contact, as described in paragraph (4), updated information  
11 throughout the recall and resentencing process with regard to the  
12 prisoner's medical condition and the status of the prisoner's recall  
13 and resentencing proceedings.

14 (6) Notwithstanding any other provisions of this section, the  
15 prisoner or his or her family member or designee may  
16 independently request consideration for recall and resentencing  
17 by contacting the chief medical officer at the prison or the  
18 secretary. Upon receipt of the request, the chief medical officer  
19 and the warden or the warden's representative shall follow the  
20 procedures described in paragraph (4). If the secretary determines  
21 that the prisoner satisfies the criteria set forth in paragraph (2), the  
22 secretary or board may recommend to the court that the prisoner's  
23 sentence be recalled. The secretary shall submit a recommendation  
24 for release within 30 days in the case of inmates sentenced to  
25 determinate terms and, in the case of inmates sentenced to  
26 indeterminate terms, the secretary shall make a recommendation  
27 to the Board of Parole Hearings with respect to the inmates who  
28 have applied under this section. The board shall consider this  
29 information and make an independent judgment pursuant to  
30 paragraph (2) and make findings related thereto before rejecting  
31 the request or making a recommendation to the court. This action  
32 shall be taken at the next lawfully noticed board meeting.

33 (7) Any recommendation for recall submitted to the court by  
34 the secretary or the Board of Parole Hearings shall include one or  
35 more medical evaluations, a postrelease plan, and findings pursuant  
36 to paragraph (2).

37 (8) If possible, the matter shall be heard before the same judge  
38 of the court who sentenced the prisoner.

39 (9) If the court grants the recall and resentencing application,  
40 the prisoner shall be released by the department within 48 hours

1 of receipt of the court's order, unless a longer time period is agreed  
2 to by the inmate. At the time of release, the warden or the warden's  
3 representative shall ensure that the prisoner has each of the  
4 following in his or her possession: a discharge medical summary,  
5 full medical records, state identification, parole medications, and  
6 all property belonging to the prisoner. After discharge, any  
7 additional records shall be sent to the prisoner's forwarding  
8 address.

9 (10) The secretary shall issue a directive to medical and  
10 correctional staff employed by the department that details the  
11 guidelines and procedures for initiating a recall and resentencing  
12 procedure. The directive shall clearly state that any prisoner who  
13 is given a prognosis of six months or less to live is eligible for  
14 recall and resentencing consideration, and that recall and  
15 resentencing procedures shall be initiated upon that prognosis.

16 (f) Notwithstanding any other provision of this section, for  
17 purposes of paragraph (3) of subdivision (h), any allegation that  
18 a defendant is eligible for state prison due to a prior or current  
19 conviction, sentence enhancement, or because he or she is required  
20 to register as a sex offender shall not be subject to dismissal  
21 pursuant to Section 1385.

22 (g) A sentence to state prison for a determinate term for which  
23 only one term is specified, is a sentence to state prison under this  
24 section.

25 (h) (1) Except as provided in paragraph (3), a felony punishable  
26 pursuant to this subdivision where the term is not specified in the  
27 underlying offense shall be punishable by a term of imprisonment  
28 in a county jail for 16 months, or two or three years.

29 (2) Except as provided in paragraph (3), a felony punishable  
30 pursuant to this subdivision shall be punishable by imprisonment  
31 in a county jail for the term described in the underlying offense.

32 (3) Notwithstanding paragraphs (1) and (2), where the defendant  
33 (A) has a prior or current felony conviction for a serious felony  
34 described in subdivision (c) of Section 1192.7 or a prior or current  
35 conviction for a violent felony described in subdivision (c) of  
36 Section 667.5, (B) has a prior felony conviction in another  
37 jurisdiction for an offense that has all the elements of a serious  
38 felony described in subdivision (c) of Section 1192.7 or a violent  
39 felony described in subdivision (c) of Section 667.5, (C) is required  
40 to register as a sex offender pursuant to Chapter 5.5 (commencing

1 with Section 290) of Title 9 of Part 1, (D) is convicted of a crime  
2 and as part of the sentence an enhancement pursuant to Section  
3 186.11 is imposed, or (E) is convicted of a felony or felonies  
4 punishable pursuant to this subdivision and is sentenced to an  
5 aggregate term of more than ~~three~~ *seven* years, an executed  
6 sentence for a felony punishable pursuant to this subdivision shall  
7 be served in state prison.

8 (4) Nothing in this subdivision shall be construed to prevent  
9 other dispositions authorized by law, including pretrial diversion,  
10 deferred entry of judgment, or an order granting probation pursuant  
11 to Section 1203.1.

12 (5) The court, when imposing a sentence pursuant to paragraph  
13 (1) or (2) of this subdivision, may commit the defendant to county  
14 jail as follows:

15 (A) For a full term in custody as determined in accordance with  
16 the applicable sentencing law.

17 (B) (i) For a term as determined in accordance with the  
18 applicable sentencing law, but suspend execution of a concluding  
19 portion of the term selected in the court's discretion, during which  
20 time the defendant shall be supervised by the county probation  
21 officer in accordance with the terms, conditions, and procedures  
22 generally applicable to persons placed on probation, for the  
23 remaining unserved portion of the sentence imposed by the court.  
24 The period of supervision shall be mandatory, and may not be  
25 earlier terminated except by court order. Any proceeding to revoke  
26 or modify mandatory supervision under this subparagraph shall  
27 be conducted pursuant to either subdivisions (a) and (b) of Section  
28 1203.2 or Section 1203.3. During the period when the defendant  
29 is under such supervision, unless in actual custody related to the  
30 sentence imposed by the court, the defendant shall be entitled to  
31 only actual time credit against the term of imprisonment imposed  
32 by the court. Any time period which is suspended because a person  
33 has absconded shall not be credited toward the period of  
34 supervision.

35 (ii) The portion of a defendant's sentenced term during which  
36 time he or she is supervised by the county probation officer  
37 pursuant to this subparagraph shall be known as mandatory  
38 supervision.

1 (6) The sentencing changes made by the act that added this  
2 subdivision shall be applied prospectively to any person sentenced  
3 on or after October 1, 2011.

4 (i) This section shall remain in effect only until January 1, 2017,  
5 and as of that date is repealed, unless a later enacted statute, that  
6 is enacted before that date, deletes or extends that date.

7 SEC. 3. Section 1170 of the Penal Code, as amended by Section  
8 6 of Chapter 508 of the Statutes of 2013, is amended to read:

9 1170. (a) (1) The Legislature finds and declares that the  
10 purpose of imprisonment for crime is punishment. This purpose  
11 is best served by terms proportionate to the seriousness of the  
12 offense with provision for uniformity in the sentences of offenders  
13 committing the same offense under similar circumstances. The  
14 Legislature further finds and declares that the elimination of  
15 disparity and the provision of uniformity of sentences can best be  
16 achieved by determinate sentences fixed by statute in proportion  
17 to the seriousness of the offense as determined by the Legislature  
18 to be imposed by the court with specified discretion.

19 (2) Notwithstanding paragraph (1), the Legislature further finds  
20 and declares that programs should be available for inmates,  
21 including, but not limited to, educational programs, that are  
22 designed to prepare nonviolent felony offenders for successful  
23 reentry into the community. The Legislature encourages the  
24 development of policies and programs designed to educate and  
25 rehabilitate nonviolent felony offenders. In implementing this  
26 section, the Department of Corrections and Rehabilitation is  
27 encouraged to give priority enrollment in programs to promote  
28 successful return to the community to an inmate with a short  
29 remaining term of commitment and a release date that would allow  
30 him or her adequate time to complete the program.

31 (3) In any case in which the punishment prescribed by statute  
32 for a person convicted of a public offense is a term of imprisonment  
33 in the state prison of any specification of three time periods, the  
34 court shall sentence the defendant to one of the terms of  
35 imprisonment specified unless the convicted person is given any  
36 other disposition provided by law, including a fine, jail, probation,  
37 or the suspension of imposition or execution of sentence or is  
38 sentenced pursuant to subdivision (b) of Section 1168 because he  
39 or she had committed his or her crime prior to July 1, 1977. In  
40 sentencing the convicted person, the court shall apply the

1 sentencing rules of the Judicial Council. The court, unless it  
2 determines that there are circumstances in mitigation of the  
3 punishment prescribed, shall also impose any other term that it is  
4 required by law to impose as an additional term. Nothing in this  
5 article shall affect any provision of law that imposes the death  
6 penalty, that authorizes or restricts the granting of probation or  
7 suspending the execution or imposition of sentence, or expressly  
8 provides for imprisonment in the state prison for life, except as  
9 provided in paragraph (2) of subdivision (d). In any case in which  
10 the amount of preimprisonment credit under Section 2900.5 or any  
11 other provision of law is equal to or exceeds any sentence imposed  
12 pursuant to this chapter, the entire sentence shall be deemed to  
13 have been served and the defendant shall not be actually delivered  
14 to the custody of the secretary. The court shall advise the defendant  
15 that he or she shall serve a period of parole and order the defendant  
16 to report to the parole office closest to the defendant's last legal  
17 residence, unless the in-custody credits equal the total sentence,  
18 including both confinement time and the period of parole. The  
19 sentence shall be deemed a separate prior prison term under Section  
20 667.5, and a copy of the judgment and other necessary  
21 documentation shall be forwarded to the secretary.

22 (b) When a judgment of imprisonment is to be imposed and the  
23 statute specifies three possible terms, the court shall order  
24 imposition of the middle term, unless there are circumstances in  
25 aggravation or mitigation of the crime. At least four days prior to  
26 the time set for imposition of judgment, either party or the victim,  
27 or the family of the victim if the victim is deceased, may submit  
28 a statement in aggravation or mitigation to dispute facts in the  
29 record or the probation officer's report, or to present additional  
30 facts. In determining whether there are circumstances that justify  
31 imposition of the upper or lower term, the court may consider the  
32 record in the case, the probation officer's report, other reports,  
33 including reports received pursuant to Section 1203.03, and  
34 statements in aggravation or mitigation submitted by the  
35 prosecution, the defendant, or the victim, or the family of the victim  
36 if the victim is deceased, and any further evidence introduced at  
37 the sentencing hearing. The court shall set forth on the record the  
38 facts and reasons for imposing the upper or lower term. The court  
39 may not impose an upper term by using the fact of any  
40 enhancement upon which sentence is imposed under any provision

1 of law. A term of imprisonment shall not be specified if imposition  
2 of sentence is suspended.

3 (c) The court shall state the reasons for its sentence choice on  
4 the record at the time of sentencing. The court shall also inform  
5 the defendant that as part of the sentence after expiration of the  
6 term he or she may be on parole for a period as provided in Section  
7 3000.

8 (d) (1) When a defendant subject to this section or subdivision  
9 (b) of Section 1168 has been sentenced to be imprisoned in the  
10 state prison and has been committed to the custody of the secretary,  
11 the court may, within 120 days of the date of commitment on its  
12 own motion, or at any time upon the recommendation of the  
13 secretary or the Board of Parole Hearings, recall the sentence and  
14 commitment previously ordered and resentence the defendant in  
15 the same manner as if he or she had not previously been sentenced,  
16 provided the new sentence, if any, is no greater than the initial  
17 sentence. The court resentencing under this subdivision shall apply  
18 the sentencing rules of the Judicial Council so as to eliminate  
19 disparity of sentences and to promote uniformity of sentencing.  
20 Credit shall be given for time served.

21 (2) (A) (i) When a defendant who was under 18 years of age  
22 at the time of the commission of the offense for which the  
23 defendant was sentenced to imprisonment for life without the  
24 possibility of parole has served at least 15 years of that sentence,  
25 the defendant may submit to the sentencing court a petition for  
26 recall and resentencing.

27 (ii) Notwithstanding clause (i), this paragraph shall not apply  
28 to defendants sentenced to life without parole for an offense where  
29 the defendant tortured, as described in Section 206, his or her  
30 victim or the victim was a public safety official, including any law  
31 enforcement personnel mentioned in Chapter 4.5 (commencing  
32 with Section 830) of Title 3, or any firefighter as described in  
33 Section 245.1, as well as any other officer in any segment of law  
34 enforcement who is employed by the federal government, the state,  
35 or any of its political subdivisions.

36 (B) The defendant shall file the original petition with the  
37 sentencing court. A copy of the petition shall be served on the  
38 agency that prosecuted the case. The petition shall include the  
39 defendant's statement that he or she was under 18 years of age at  
40 the time of the crime and was sentenced to life in prison without

1 the possibility of parole, the defendant’s statement describing his  
2 or her remorse and work towards rehabilitation, and the defendant’s  
3 statement that one of the following is true:

4 (i) The defendant was convicted pursuant to felony murder or  
5 aiding and abetting murder provisions of law.

6 (ii) The defendant does not have juvenile felony adjudications  
7 for assault or other felony crimes with a significant potential for  
8 personal harm to victims prior to the offense for which the sentence  
9 is being considered for recall.

10 (iii) The defendant committed the offense with at least one adult  
11 codefendant.

12 (iv) The defendant has performed acts that tend to indicate  
13 rehabilitation or the potential for rehabilitation, including, but not  
14 limited to, availing himself or herself of rehabilitative, educational,  
15 or vocational programs, if those programs have been available at  
16 his or her classification level and facility, using self-study for  
17 self-improvement, or showing evidence of remorse.

18 (C) If any of the information required in subparagraph (B) is  
19 missing from the petition, or if proof of service on the prosecuting  
20 agency is not provided, the court shall return the petition to the  
21 defendant and advise the defendant that the matter cannot be  
22 considered without the missing information.

23 (D) A reply to the petition, if any, shall be filed with the court  
24 within 60 days of the date on which the prosecuting agency was  
25 served with the petition, unless a continuance is granted for good  
26 cause.

27 (E) If the court finds by a preponderance of the evidence that  
28 the statements in the petition are true, the court shall hold a hearing  
29 to consider whether to recall the sentence and commitment  
30 previously ordered and to resentence the defendant in the same  
31 manner as if the defendant had not previously been sentenced,  
32 provided that the new sentence, if any, is not greater than the initial  
33 sentence. Victims, or victim family members if the victim is  
34 deceased, shall retain the rights to participate in the hearing.

35 (F) The factors that the court may consider when determining  
36 whether to recall and resentence include, but are not limited to,  
37 the following:

38 (i) The defendant was convicted pursuant to felony murder or  
39 aiding and abetting murder provisions of law.

1 (ii) The defendant does not have juvenile felony adjudications  
2 for assault or other felony crimes with a significant potential for  
3 personal harm to victims prior to the offense for which the sentence  
4 is being considered for recall.

5 (iii) The defendant committed the offense with at least one adult  
6 codefendant.

7 (iv) Prior to the offense for which the sentence is being  
8 considered for recall, the defendant had insufficient adult support  
9 or supervision and had suffered from psychological or physical  
10 trauma, or significant stress.

11 (v) The defendant suffers from cognitive limitations due to  
12 mental illness, developmental disabilities, or other factors that did  
13 not constitute a defense, but influenced the defendant's  
14 involvement in the offense.

15 (vi) The defendant has performed acts that tend to indicate  
16 rehabilitation or the potential for rehabilitation, including, but not  
17 limited to, availing himself or herself of rehabilitative, educational,  
18 or vocational programs, if those programs have been available at  
19 his or her classification level and facility, using self-study for  
20 self-improvement, or showing evidence of remorse.

21 (vii) The defendant has maintained family ties or connections  
22 with others through letter writing, calls, or visits, or has eliminated  
23 contact with individuals outside of prison who are currently  
24 involved with crime.

25 (viii) The defendant has had no disciplinary actions for violent  
26 activities in the last five years in which the defendant was  
27 determined to be the aggressor.

28 (G) The court shall have the discretion to recall the sentence  
29 and commitment previously ordered and to resentence the  
30 defendant in the same manner as if the defendant had not  
31 previously been sentenced, provided that the new sentence, if any,  
32 is not greater than the initial sentence. The discretion of the court  
33 shall be exercised in consideration of the criteria in subparagraph  
34 (B). Victims, or victim family members if the victim is deceased,  
35 shall be notified of the resentencing hearing and shall retain their  
36 rights to participate in the hearing.

37 (H) If the sentence is not recalled, the defendant may submit  
38 another petition for recall and resentencing to the sentencing court  
39 when the defendant has been committed to the custody of the  
40 department for at least 20 years. If recall and resentencing is not

1 granted under that petition, the defendant may file another petition  
2 after having served 24 years. The final petition may be submitted,  
3 and the response to that petition shall be determined, during the  
4 25th year of the defendant's sentence.

5 (I) In addition to the criteria in subparagraph (F), the court may  
6 consider any other criteria that the court deems relevant to its  
7 decision, so long as the court identifies them on the record,  
8 provides a statement of reasons for adopting them, and states why  
9 the defendant does or does not satisfy the criteria.

10 (J) This subdivision shall have retroactive application.

11 (e) (1) Notwithstanding any other law and consistent with  
12 paragraph (1) of subdivision (a), if the secretary or the Board of  
13 Parole Hearings or both determine that a prisoner satisfies the  
14 criteria set forth in paragraph (2), the secretary or the board may  
15 recommend to the court that the prisoner's sentence be recalled.

16 (2) The court shall have the discretion to resentence or recall if  
17 the court finds that the facts described in subparagraphs (A) and  
18 (B) or subparagraphs (B) and (C) exist:

19 (A) The prisoner is terminally ill with an incurable condition  
20 caused by an illness or disease that would produce death within  
21 six months, as determined by a physician employed by the  
22 department.

23 (B) The conditions under which the prisoner would be released  
24 or receive treatment do not pose a threat to public safety.

25 (C) The prisoner is permanently medically incapacitated with  
26 a medical condition that renders him or her permanently unable  
27 to perform activities of basic daily living, and results in the prisoner  
28 requiring 24-hour total care, including, but not limited to, coma,  
29 persistent vegetative state, brain death, ventilator-dependency, loss  
30 of control of muscular or neurological function, and that  
31 incapacitation did not exist at the time of the original sentencing.

32 The Board of Parole Hearings shall make findings pursuant to  
33 this subdivision before making a recommendation for resentence  
34 or recall to the court. This subdivision does not apply to a prisoner  
35 sentenced to death or a term of life without the possibility of parole.

36 (3) Within 10 days of receipt of a positive recommendation by  
37 the secretary or the board, the court shall hold a hearing to consider  
38 whether the prisoner's sentence should be recalled.

39 (4) Any physician employed by the department who determines  
40 that a prisoner has six months or less to live shall notify the chief

1 medical officer of the prognosis. If the chief medical officer  
2 concurs with the prognosis, he or she shall notify the warden.  
3 Within 48 hours of receiving notification, the warden or the  
4 warden's representative shall notify the prisoner of the recall and  
5 resentencing procedures, and shall arrange for the prisoner to  
6 designate a family member or other outside agent to be notified  
7 as to the prisoner's medical condition and prognosis, and as to the  
8 recall and resentencing procedures. If the inmate is deemed  
9 mentally unfit, the warden or the warden's representative shall  
10 contact the inmate's emergency contact and provide the information  
11 described in paragraph (2).

12 (5) The warden or the warden's representative shall provide the  
13 prisoner and his or her family member, agent, or emergency  
14 contact, as described in paragraph (4), updated information  
15 throughout the recall and resentencing process with regard to the  
16 prisoner's medical condition and the status of the prisoner's recall  
17 and resentencing proceedings.

18 (6) Notwithstanding any other provisions of this section, the  
19 prisoner or his or her family member or designee may  
20 independently request consideration for recall and resentencing  
21 by contacting the chief medical officer at the prison or the  
22 secretary. Upon receipt of the request, the chief medical officer  
23 and the warden or the warden's representative shall follow the  
24 procedures described in paragraph (4). If the secretary determines  
25 that the prisoner satisfies the criteria set forth in paragraph (2), the  
26 secretary or board may recommend to the court that the prisoner's  
27 sentence be recalled. The secretary shall submit a recommendation  
28 for release within 30 days in the case of inmates sentenced to  
29 determinate terms and, in the case of inmates sentenced to  
30 indeterminate terms, the secretary shall make a recommendation  
31 to the Board of Parole Hearings with respect to the inmates who  
32 have applied under this section. The board shall consider this  
33 information and make an independent judgment pursuant to  
34 paragraph (2) and make findings related thereto before rejecting  
35 the request or making a recommendation to the court. This action  
36 shall be taken at the next lawfully noticed board meeting.

37 (7) Any recommendation for recall submitted to the court by  
38 the secretary or the Board of Parole Hearings shall include one or  
39 more medical evaluations, a postrelease plan, and findings pursuant  
40 to paragraph (2).

1 (8) If possible, the matter shall be heard before the same judge  
2 of the court who sentenced the prisoner.

3 (9) If the court grants the recall and resentencing application,  
4 the prisoner shall be released by the department within 48 hours  
5 of receipt of the court's order, unless a longer time period is agreed  
6 to by the inmate. At the time of release, the warden or the warden's  
7 representative shall ensure that the prisoner has each of the  
8 following in his or her possession: a discharge medical summary,  
9 full medical records, state identification, parole medications, and  
10 all property belonging to the prisoner. After discharge, any  
11 additional records shall be sent to the prisoner's forwarding  
12 address.

13 (10) The secretary shall issue a directive to medical and  
14 correctional staff employed by the department that details the  
15 guidelines and procedures for initiating a recall and resentencing  
16 procedure. The directive shall clearly state that any prisoner who  
17 is given a prognosis of six months or less to live is eligible for  
18 recall and resentencing consideration, and that recall and  
19 resentencing procedures shall be initiated upon that prognosis.

20 (f) Notwithstanding any other provision of this section, for  
21 purposes of paragraph (3) of subdivision (h), any allegation that  
22 a defendant is eligible for state prison due to a prior or current  
23 conviction, sentence enhancement, or because he or she is required  
24 to register as a sex offender shall not be subject to dismissal  
25 pursuant to Section 1385.

26 (g) A sentence to state prison for a determinate term for which  
27 only one term is specified, is a sentence to state prison under this  
28 section.

29 (h) (1) Except as provided in paragraph (3), a felony punishable  
30 pursuant to this subdivision where the term is not specified in the  
31 underlying offense shall be punishable by a term of imprisonment  
32 in a county jail for 16 months, or two or three years.

33 (2) Except as provided in paragraph (3), a felony punishable  
34 pursuant to this subdivision shall be punishable by imprisonment  
35 in a county jail for the term described in the underlying offense.

36 (3) Notwithstanding paragraphs (1) and (2), where the defendant  
37 (A) has a prior or current felony conviction for a serious felony  
38 described in subdivision (c) of Section 1192.7 or a prior or current  
39 conviction for a violent felony described in subdivision (c) of  
40 Section 667.5, (B) has a prior felony conviction in another

1 jurisdiction for an offense that has all the elements of a serious  
2 felony described in subdivision (c) of Section 1192.7 or a violent  
3 felony described in subdivision (c) of Section 667.5, (C) is required  
4 to register as a sex offender pursuant to Chapter 5.5 (commencing  
5 with Section 290) of Title 9 of Part 1, (D) is convicted of a crime  
6 and as part of the sentence an enhancement pursuant to Section  
7 186.11 is imposed, or (E) is convicted of a felony or felonies  
8 punishable pursuant to this subdivision and is sentenced to an  
9 aggregate term of more than ~~three~~ *seven* years, an executed  
10 sentence for a felony punishable pursuant to this subdivision shall  
11 be served in state prison.

12 (4) Nothing in this subdivision shall be construed to prevent  
13 other dispositions authorized by law, including pretrial diversion,  
14 deferred entry of judgment, or an order granting probation pursuant  
15 to Section 1203.1.

16 (5) The court, when imposing a sentence pursuant to paragraph  
17 (1) or (2) of this subdivision, may commit the defendant to county  
18 jail as follows:

19 (A) For a full term in custody as determined in accordance with  
20 the applicable sentencing law.

21 (B) (i) For a term as determined in accordance with the  
22 applicable sentencing law, but suspend execution of a concluding  
23 portion of the term selected in the court's discretion, during which  
24 time the defendant shall be supervised by the county probation  
25 officer in accordance with the terms, conditions, and procedures  
26 generally applicable to persons placed on probation, for the  
27 remaining unserved portion of the sentence imposed by the court.  
28 The period of supervision shall be mandatory, and may not be  
29 earlier terminated except by court order. Any proceeding to revoke  
30 or modify mandatory supervision under this subparagraph shall  
31 be conducted pursuant to either subdivisions (a) and (b) of Section  
32 1203.2 or Section 1203.3. During the period when the defendant  
33 is under such supervision, unless in actual custody related to the  
34 sentence imposed by the court, the defendant shall be entitled to  
35 only actual time credit against the term of imprisonment imposed  
36 by the court. Any time period which is suspended because a person  
37 has absconded shall not be credited toward the period of  
38 supervision.

39 (ii) The portion of a defendant's sentenced term during which  
40 time he or she is supervised by the county probation officer

1 pursuant to this subparagraph shall be known as mandatory  
2 supervision, and shall begin upon release from custody.

3 (6) The sentencing changes made by the act that added this  
4 subdivision shall be applied prospectively to any person sentenced  
5 on or after October 1, 2011.

6 (i) This section shall become operative on January 1, 2017.

7 SEC. 4. Section 3000.08 of the Penal Code is amended to read:

8 3000.08. (a) A person released from state prison prior to or  
9 on or after July 1, 2013, after serving a prison term, or whose  
10 sentence has been deemed served pursuant to Section 2900.5, for  
11 any of the following crimes is subject to parole supervision by the  
12 Department of Corrections and Rehabilitation and the jurisdiction  
13 of the court in the county in which the parolee is released, resides,  
14 or in which an alleged violation of supervision has occurred, for  
15 the purpose of hearing petitions to revoke parole and impose a  
16 term of custody:

17 (1) A serious felony as described in subdivision (c) of Section  
18 1192.7.

19 (2) A violent felony as described in subdivision (c) of Section  
20 667.5.

21 (3) A crime for which the person was sentenced pursuant to  
22 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)  
23 of subdivision (c) of Section 1170.12.

24 (4) Any crime for which the person is classified as a high-risk  
25 sex offender.

26 (5) Any crime for which the person is required, as a condition  
27 of parole, to undergo treatment by the State Department of State  
28 Hospitals pursuant to Section 2962.

29 (b) A person released from state prison on or after January 1,  
30 2015, after serving a prison term, or whose sentence has been  
31 deemed served pursuant to Section 2900.5, to whom any of the  
32 following apply, is subject to the jurisdiction of, and parole  
33 supervision by, the Department of Corrections and Rehabilitation  
34 and the jurisdiction of the court in the county in which the parolee  
35 is released, resides, or in which an alleged violation of supervision  
36 has occurred, for the purpose of hearing petitions to revoke parole  
37 and impose a term of custody:

38 (1) The person has a prior conviction of a serious felony  
39 described in subdivision (c) of Section 1192.7.

1 (2) The person has a prior conviction of a violent felony  
2 described in subdivision (c) of Section 667.5.

3 (3) The person has a prior conviction for which the person was  
4 sentenced pursuant to paragraph (2) of subdivision (e) of Section  
5 667 or paragraph (2) of subdivision (c) of Section 1170.12.

6 (4) The person has a prior conviction of a crime for which the  
7 person was classified as a high-risk sex offender.

8 (5) The person has a conviction of a crime for which the person  
9 was required, as a condition of parole, to undergo treatment by the  
10 State Department of State Hospitals pursuant to Section 2962.

11 (c) Notwithstanding any other law, all other offenders released  
12 from prison shall be placed on postrelease supervision pursuant  
13 to Title 2.05 (commencing with Section 3450).

14 (d) At any time during the period of parole of a person subject  
15 to this section, if any parole agent or peace officer has probable  
16 cause to believe that the parolee is violating any term or condition  
17 of his or her parole, the agent or officer may, without warrant or  
18 other process and at any time until the final disposition of the case,  
19 arrest the person and bring him or her before the court, or the court  
20 may, in its discretion, issue a warrant for that person's arrest  
21 pursuant to Section 1203.2.

22 (e) Upon review of the alleged violation and a finding of good  
23 cause that the parolee has committed a violation of law or violated  
24 his or her conditions of parole, the supervising parole agency may  
25 impose additional and appropriate conditions of supervision,  
26 including rehabilitation and treatment services and appropriate  
27 incentives for compliance, and impose immediate, structured, and  
28 intermediate sanctions for parole violations, including flash  
29 incarceration in a city or a county jail. Periods of "flash  
30 incarceration," as defined in subdivision (f) are encouraged as one  
31 method of punishment for violations of a parolee's conditions of  
32 parole. This section does not preclude referrals to a reentry court  
33 pursuant to Section 3015.

34 (f) "Flash incarceration" is a period of detention in a city or a  
35 county jail due to a violation of a parolee's conditions of parole.  
36 The length of the detention period can range between one and 10  
37 consecutive days. Shorter, but if necessary more frequent, periods  
38 of detention for violations of a parolee's conditions of parole shall  
39 appropriately punish a parolee while preventing the disruption in

1 a work or home establishment that typically arises from longer  
2 periods of detention.

3 (g) If the supervising parole agency has determined, following  
4 application of its assessment processes, that intermediate sanctions  
5 up to and including flash incarceration are not appropriate, the  
6 supervising parole agency shall, pursuant to Section 1203.2,  
7 petition either the court in the county in which the parolee is being  
8 supervised or the court in the county in which the alleged violation  
9 of supervision occurred, to revoke parole. At any point during the  
10 process initiated pursuant to this section, a parolee may waive, in  
11 writing, his or her right to counsel, admit the parole violation,  
12 waive a court hearing, and accept the proposed parole modification  
13 or revocation. The petition shall include a written report that  
14 contains additional information regarding the petition, including  
15 the relevant terms and conditions of parole, the circumstances of  
16 the alleged underlying violation, the history and background of  
17 the parolee, and any recommendations. The Judicial Council shall  
18 adopt forms and rules of court to establish uniform statewide  
19 procedures to implement this subdivision, including the minimum  
20 contents of supervision agency reports. Upon a finding that the  
21 person has violated the conditions of parole, the court shall have  
22 authority to do any of the following:

23 (1) Return the person to parole supervision with modifications  
24 of conditions, if appropriate, including a period of incarceration  
25 in county jail.

26 (2) Revoke parole and order the person to confinement in the  
27 county jail.

28 (3) Refer the person to a reentry court pursuant to Section 3015  
29 or other evidence-based program in the court's discretion.

30 (h) Confinement pursuant to paragraphs (1) and (2) of  
31 subdivision (g) shall not exceed a period of 180 days in the county  
32 jail.

33 (i) Notwithstanding any other law, if Section 3000.1 or  
34 paragraph (4) of subdivision (b) of Section 3000 applies to a person  
35 who is on parole and the court determines that the person has  
36 committed a violation of law or violated his or her conditions of  
37 parole, the person on parole shall be remanded to the custody of  
38 the Department of Corrections and Rehabilitation and the  
39 jurisdiction of the Board of Parole Hearings for the purpose of  
40 future parole consideration.

1 (j) Notwithstanding subdivision (a), any of the following persons  
2 released from state prison shall be subject to the jurisdiction of,  
3 and parole supervision by, the Department of Corrections and  
4 Rehabilitation for a period of parole up to three years or the parole  
5 term the person was subject to at the time of the commission of  
6 the offense, whichever is greater:

7 (1) The person is required to register as a sex offender pursuant  
8 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part  
9 1, and was subject to a period of parole exceeding three years at  
10 the time he or she committed a felony for which they were  
11 convicted and subsequently sentenced to state prison.

12 (2) The person was subject to parole for life pursuant to Section  
13 3000.1 at the time of the commission of the offense that resulted  
14 in a conviction and state prison sentence.

15 (k) Parolees subject to this section who have a pending  
16 adjudication for a parole violation on July 1, 2013, are subject to  
17 the jurisdiction of the Board of Parole Hearings. Parole revocation  
18 proceedings conducted by the Board of Parole Hearings prior to  
19 July 1, 2013, if reopened on or after July 1, 2013, are subject to  
20 the jurisdiction of the Board of Parole Hearings.

21 (l) Except as described in subdivision (d), any person who is  
22 convicted of a felony that requires community supervision and  
23 who still has a period of state parole to serve shall discharge from  
24 state parole at the time of release to community supervision.

25 (m) Any person released to parole supervision pursuant to  
26 subdivision (a) or (b) shall, regardless of any subsequent  
27 determination that the person should have been released pursuant  
28 to subdivision (c), remain subject to subdivision (a) or (b) after  
29 having served 60 days under supervision pursuant to subdivision  
30 (a) or (b).

31 SEC. 5. Section 3451 of the Penal Code is amended to read:

32 3451. (a) Notwithstanding any other law and except for persons  
33 serving a prison term for any crime described in subdivision (b),  
34 all persons released from prison on and after October 1, 2011, or,  
35 whose sentence has been deemed served pursuant to Section 2900.5  
36 after serving a prison term for a felony shall, upon release from  
37 prison and for a period not exceeding three years immediately  
38 following release, be subject to community supervision provided  
39 by a county agency designated by each county's board of  
40 supervisors which is consistent with evidence-based practices,

1 including, but not limited to, supervision policies, procedures,  
2 programs, and practices demonstrated by scientific research to  
3 reduce recidivism among individuals under postrelease supervision.

4 (b) This section shall not apply to any person released from  
5 prison after having served a prison term for any of the following:

6 (1) A serious felony described in subdivision (c) of Section  
7 1192.7.

8 (2) A violent felony described in subdivision (c) of Section  
9 667.5.

10 (3) A crime for which the person was sentenced pursuant to  
11 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)  
12 of subdivision (c) of Section 1170.12.

13 (4) Any crime for which the person is classified as a high-risk  
14 sex offender.

15 (5) Any crime for which the person is required, as a condition  
16 of parole, to undergo treatment by the State Department of State  
17 Hospitals pursuant to Section 2962.

18 (c) This section shall not apply to any person released from  
19 prison to whom any of the following apply:

20 (1) The person has a prior conviction of a serious felony  
21 described in subdivision (c) of Section 1192.7.

22 (2) The person has a prior conviction of a violent felony  
23 described in subdivision (c) of Section 667.5.

24 (3) The person has a prior conviction for which the person was  
25 sentenced pursuant to paragraph (2) of subdivision (e) of Section  
26 667 or paragraph (2) of subdivision (c) of Section 1170.12.

27 (4) The person has a prior conviction of a crime for which the  
28 person was classified as a high-risk sex offender.

29 (5) The person has a conviction of a crime for which the person  
30 was required, as a condition of parole, to undergo treatment by the  
31 State Department of State Hospitals pursuant to Section 2962.

32 (d) (1) Postrelease supervision under this title shall be  
33 implemented by a county agency according to a postrelease strategy  
34 designated by each county's board of supervisors.

35 (2) The Department of Corrections and Rehabilitation shall  
36 inform every prisoner subject to the provisions of this title, upon  
37 release from state prison, of the requirements of this title and of  
38 his or her responsibility to report to the county agency responsible  
39 for serving that inmate. The department shall also inform persons  
40 serving a term of parole for a felony offense who are subject to

1 this section of the requirements of this title and of his or her  
 2 responsibility to report to the county agency responsible for serving  
 3 that parolee. Thirty days prior to the release of any person subject  
 4 to postrelease supervision by a county, the department shall notify  
 5 the county of all information that would otherwise be required for  
 6 parolees under subdivision (e) of Section 3003.

7 (e) Any person released to postrelease community supervision  
 8 pursuant to subdivision (a) shall, regardless of any subsequent  
 9 determination that the person should have been released to parole  
 10 pursuant to Section 3000.08, remain subject to subdivision (a) after  
 11 having served 60 days under supervision pursuant to subdivision  
 12 (a).

13 ~~SEC. 6. Section 3455 of the Penal Code is amended to read:~~

14 ~~3455. (a) If the supervising county agency has determined,~~  
 15 ~~following application of its assessment processes, that intermediate~~  
 16 ~~sanctions as authorized in subdivision (b) of Section 3454 are not~~  
 17 ~~appropriate, the supervising county agency shall petition the court~~  
 18 ~~pursuant to Section 1203.2 to revoke, modify, or terminate~~  
 19 ~~postrelease community supervision. At any point during the process~~  
 20 ~~initiated pursuant to this section, a person may waive, in writing,~~  
 21 ~~his or her right to counsel, admit the violation of his or her~~  
 22 ~~postrelease community supervision, waive a court hearing, and~~  
 23 ~~accept the proposed modification of his or her postrelease~~  
 24 ~~community supervision. The petition shall include a written report~~  
 25 ~~that contains additional information regarding the petition,~~  
 26 ~~including the relevant terms and conditions of postrelease~~  
 27 ~~community supervision, the circumstances of the alleged~~  
 28 ~~underlying violation, the history and background of the violator,~~  
 29 ~~and any recommendations. The Judicial Council shall adopt forms~~  
 30 ~~and rules of court to establish uniform statewide procedures to~~  
 31 ~~implement this subdivision, including the minimum contents of~~  
 32 ~~supervision agency reports. Upon a finding that the person has~~  
 33 ~~violated the conditions of postrelease community supervision, the~~  
 34 ~~revocation hearing officer shall have authority to do all of the~~  
 35 ~~following:~~

36 ~~(1) Return the person to postrelease community supervision~~  
 37 ~~with modifications of conditions, if appropriate, including a period~~  
 38 ~~of incarceration in county jail.~~

39 ~~(2) Revoke and terminate postrelease community supervision~~  
 40 ~~and order the person to confinement in the county jail.~~

1 ~~(3) Refer the person to a reentry court pursuant to Section 3015~~  
2 ~~or other evidence-based program in the court's discretion.~~

3 ~~(4) If the person has been found to have violated the conditions~~  
4 ~~of postrelease community supervision on two prior occasions,~~  
5 ~~revoke and terminate postrelease community supervision and order~~  
6 ~~the person to confinement in the state prison for a period of one~~  
7 ~~year.~~

8 ~~(b) (1) At any time during the period of postrelease community~~  
9 ~~supervision, if any peace officer has probable cause to believe a~~  
10 ~~person subject to postrelease community supervision is violating~~  
11 ~~any term or condition of his or her release, the officer may, without~~  
12 ~~a warrant or other process, arrest the person and bring him or her~~  
13 ~~before the supervising county agency established by the county~~  
14 ~~board of supervisors pursuant to subdivision (a) of Section 3451.~~  
15 ~~Additionally, an officer employed by the supervising county agency~~  
16 ~~may seek a warrant and a court or its designated hearing officer~~  
17 ~~appointed pursuant to Section 71622.5 of the Government Code~~  
18 ~~shall have the authority to issue a warrant for that person's arrest.~~

19 ~~(2) The court or its designated hearing officer shall have the~~  
20 ~~authority to issue a warrant for any person who is the subject of a~~  
21 ~~petition filed under this section who has failed to appear for a~~  
22 ~~hearing on the petition or for any reason in the interests of justice,~~  
23 ~~or to remand to custody a person who does appear at a hearing on~~  
24 ~~the petition for any reason in the interests of justice.~~

25 ~~(c) The revocation hearing shall be held within a reasonable~~  
26 ~~time after the filing of the revocation petition. Based upon a~~  
27 ~~showing of a preponderance of the evidence that a person under~~  
28 ~~supervision poses an unreasonable risk to public safety, or the~~  
29 ~~person may not appear if released from custody, or for any reason~~  
30 ~~in the interests of justice, the supervising county agency shall have~~  
31 ~~the authority to make a determination whether the person should~~  
32 ~~remain in custody pending the first court appearance on a petition~~  
33 ~~to revoke postrelease community supervision, and upon that~~  
34 ~~determination, may order the person confined pending his or her~~  
35 ~~first court appearance.~~

36 ~~(d) Confinement pursuant to paragraphs (1) and (2) of~~  
37 ~~subdivision (a) shall not exceed a period of 180 days in the county~~  
38 ~~jail for each custodial sanction.~~

39 ~~(e) A person shall not remain under supervision or in custody~~  
40 ~~pursuant to this title on or after three years from the date of the~~

1 ~~person's initial entry onto postrelease community supervision,~~  
2 ~~except when his or her supervision is tolled pursuant to Section~~  
3 ~~1203.2 or subdivision (b) of Section 3456.~~

4 *SEC. 6. This act shall become operative only if the federal*  
5 *court order dated February 10, 2014, requiring prison bed capacity*  
6 *to be at 137.5 percent of design capacity by February 28, 2016,*  
7 *has been fully complied with on or before February 28, 2016.*

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