

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2205

Introduced by Assembly Member Dodd

February 18, 2016

An act to amend Sections 1170, 1203.2, and 3456 of the Penal Code, relating to supervised persons.

LEGISLATIVE COUNSEL'S DIGEST

AB 2205, as amended, Dodd. Supervised persons: credits.

Existing law, until January 1, 2017, requires that when a statute imposes 3 possible terms of imprisonment, the choice of the appropriate term to impose is within the court's discretion. Existing law authorizes a court, when sentencing a person to county jail for a felony, to commit the person to county jail for either the full term in custody, as specified, or to suspend the execution of a concluding portion of the term selected at the court's discretion. Under existing law, this period of suspended execution is supervised by the county probation officer and is known as mandatory supervision. Existing law prohibits any time period which is suspended because a person has absconded from being credited toward the period of supervision.

This bill would extend the operation of the sentencing term provisions described above until January 1, 2020. This bill would revise those provisions to prohibit the period of time during any revocation, summary or otherwise, of mandatory supervision from being credited toward any period of supervision, remain in custody for a period longer than the term of supervision. *The bill would also provide that the period of the stay of the sentence would not extend beyond 5 years from the date of the last summary revocation of supervision, subject to exception, and*

in no event would the stay be extended beyond 10 years from the date of the last summary revocation of supervision.

Existing law allows a probation officer, parole officer, or peace officer to arrest a person without warrant or other process during the period that a person is released on probation, conditional sentence or summary probation, or mandatory supervision, or when the person is subject to revocation of postrelease community supervision or parole supervision, if the officer has probable cause to believe that the supervised person is violating the terms of his or her supervision. Under existing law, the revocation of supervision, summary or otherwise, serves to toll the running of the period of supervision.

This bill would instead prohibit the period of time during any revocation, summary or otherwise, from being credited toward any period of supervision. *The bill would also provide that the period of the stay of the sentence would not extend beyond 5 years from the date of the last summary revocation of supervision, subject to exception, and in no event would the stay be extended beyond 10 years from the date of the last summary revocation of supervision.*

Existing law requires a county agency responsible for postrelease supervision to maintain postrelease supervision over a person subject to that supervision until one of several specified events occurs. Existing law prohibits the time during which a person on postrelease supervision is suspended because the person has absconded from being credited toward any period of postrelease supervision.

This bill would revise that prohibition to prohibit the period of time during any revocation, summary or otherwise, from being credited toward any period of supervision, provided however, that the person subject to postrelease supervision would not remain in custody for a period longer than the authorized term of supervision. *The bill would also provide that the period of the stay of the sentence would not extend beyond 5 years from the date of the last summary revocation of supervision, subject to exception, and in no event would the stay be extended beyond 10 years from the date of the last summary revocation of supervision.* The bill would make additional technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 1170 of the Penal Code, as amended by
2 Section 1 of Chapter 378 of the Statutes of 2015, is amended to
3 read:

4 1170. (a) (1) The Legislature finds and declares that the
5 purpose of imprisonment for crime is punishment. This purpose
6 is best served by terms proportionate to the seriousness of the
7 offense with provision for uniformity in the sentences of offenders
8 committing the same offense under similar circumstances. The
9 Legislature further finds and declares that the elimination of
10 disparity and the provision of uniformity of sentences is best
11 achieved by determinate sentences fixed by statute in proportion
12 to the seriousness of the offense as determined by the Legislature
13 to be imposed by the court with specified discretion.

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

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

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

27 (b) When a judgment of imprisonment is to be imposed and the
28 statute specifies three possible terms, the choice of the appropriate
29 term shall rest within the sound discretion of the court. At least
30 four days prior to the time set for imposition of judgment, either
31 party or the victim, or the family of the victim if the victim is
32 deceased, may submit a statement in aggravation or mitigation. In
33 determining the appropriate term, the court may consider the record
34 in the case, the probation officer's report, other reports, including
35 reports received pursuant to Section 1203.03, and statements in
36 aggravation or mitigation submitted by the prosecution, the
37 defendant, or the victim, or the family of the victim if the victim
38 is deceased, and any further evidence introduced at the sentencing
39 hearing. The court shall select the term that, in the court's
40 discretion, best serves the interests of justice. The court shall set

1 forth on the record the reasons for imposing the term selected and
2 the court may not impose an upper term by using the fact of an
3 enhancement upon which sentence is imposed under any law. A
4 term of imprisonment shall not be specified if imposition of
5 sentence is suspended.

6 (c) The court shall state the reasons for its sentence choice on
7 the record at the time of sentencing. The court shall also inform
8 the defendant that as part of the sentence after expiration of the
9 term he or she may be on parole for a period as provided in Section
10 3000 or 3000.08 or postrelease community supervision for a period
11 as provided in Section 3451.

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

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

34 (ii) Notwithstanding clause (i), this paragraph shall not apply
35 to a defendant sentenced to life without parole for an offense where
36 the defendant tortured, as described in Section 206, his or her
37 victim, or the victim was a public safety official, including any
38 law enforcement personnel mentioned in Chapter 4.5 (commencing
39 with Section 830) of Title 3, or any firefighter as described in
40 Section 245.1, as well as any other officer in any segment of law

1 enforcement who is employed by the federal government, the state,
2 or any of its political subdivisions.

3 (B) The defendant shall file the original petition with the
4 sentencing court. A copy of the petition shall be served on the
5 agency that prosecuted the case. The petition shall include the
6 defendant's statement that he or she was under 18 years of age at
7 the time of the crime and was sentenced to life in prison without
8 the possibility of parole, the defendant's statement describing his
9 or her remorse and work towards rehabilitation, and the defendant's
10 statement that one of the following is true:

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

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

17 (iii) The defendant committed the offense with at least one adult
18 codefendant.

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

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

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

34 (E) If the court finds by a preponderance of the evidence that
35 the statements in the petition are true, the court shall hold a hearing
36 to consider whether to recall the sentence and commitment
37 previously ordered and to resentence the defendant in the same
38 manner as if the defendant had not previously been sentenced,
39 provided that the new sentence, if any, is not greater than the initial

1 sentence. Victims, or victim family members if the victim is
2 deceased, shall retain their rights to participate in the hearing.

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

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

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

12 (iii) The defendant committed the offense with at least one adult
13 codefendant.

14 (iv) Prior to the offense for which the sentence is being
15 considered for recall, the defendant had insufficient adult support
16 or supervision and had suffered from psychological or physical
17 trauma, or significant stress.

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

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

28 (vii) The defendant has maintained family ties or connections
29 with others through letter writing, calls, or visits, or has eliminated
30 contact with individuals outside of prison who are currently
31 involved with crime.

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

35 (G) The court shall have the discretion to recall the sentence
36 and commitment previously ordered and to resentence the
37 defendant in the same manner as if the defendant had not
38 previously been sentenced, provided that the new sentence, if any,
39 is not greater than the initial sentence. The discretion of the court
40 shall be exercised in consideration of the criteria in subparagraph

1 (B). Victims, or victim family members if the victim is deceased,
2 shall be notified of the resentencing hearing and shall retain their
3 rights to participate in the hearing.

4 (H) If the sentence is not recalled, the defendant may submit
5 another petition for recall and resentencing to the sentencing court
6 when the defendant has been committed to the custody of the
7 department for at least 20 years. If recall and resentencing is not
8 granted under that petition, the defendant may file another petition
9 after having served 24 years. The final petition may be submitted,
10 and the response to that petition shall be determined, during the
11 25th year of the defendant's sentence.

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

17 (J) This subdivision shall have retroactive application.

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

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

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

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

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

1 (ii) The Board of Parole Hearings shall make findings pursuant
2 to this subdivision before making a recommendation for resentence
3 or recall to the court. This subdivision does not apply to a prisoner
4 sentenced to death or a term of life without the possibility of parole.

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

8 (4) A physician employed by the department who determines
9 that a prisoner has six months or less to live shall notify the chief
10 medical officer of the prognosis. If the chief medical officer
11 concurs with the prognosis, he or she shall notify the warden.
12 Within 48 hours of receiving notification, the warden or the
13 warden's representative shall notify the prisoner of the recall and
14 resentencing procedures, and shall arrange for the prisoner to
15 designate a family member or other outside agent to be notified
16 as to the prisoner's medical condition and prognosis, and as to the
17 recall and resentencing procedures. If the inmate is deemed
18 mentally unfit, the warden or the warden's representative shall
19 contact the inmate's emergency contact and provide the information
20 described in paragraph (2).

21 (5) The warden or the warden's representative shall provide the
22 prisoner and his or her family member, agent, or emergency
23 contact, as described in paragraph (4), updated information
24 throughout the recall and resentencing process with regard to the
25 prisoner's medical condition and the status of the prisoner's recall
26 and resentencing proceedings.

27 (6) Notwithstanding any other provision of this section, the
28 prisoner or his or her family member or designee may
29 independently request consideration for recall and resentencing
30 by contacting the chief medical officer at the prison or the
31 secretary. Upon receipt of the request, the chief medical officer
32 and the warden or the warden's representative shall follow the
33 procedures described in paragraph (4). If the secretary determines
34 that the prisoner satisfies the criteria set forth in paragraph (2), the
35 secretary or board may recommend to the court that the prisoner's
36 sentence be recalled. The secretary shall submit a recommendation
37 for release within 30 days in the case of inmates sentenced to
38 determinate terms and, in the case of inmates sentenced to
39 indeterminate terms, the secretary shall make a recommendation
40 to the Board of Parole Hearings with respect to the inmates who

1 have applied under this section. The board shall consider this
2 information and make an independent judgment pursuant to
3 paragraph (2) and make findings related thereto before rejecting
4 the request or making a recommendation to the court. This action
5 shall be taken at the next lawfully noticed board meeting.

6 (7) A recommendation for recall submitted to the court by the
7 secretary or the Board of Parole Hearings shall include one or more
8 medical evaluations, a postrelease plan, and findings pursuant to
9 paragraph (2).

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

12 (9) If the court grants the recall and resentencing application,
13 the prisoner shall be released by the department within 48 hours
14 of receipt of the court's order, unless a longer time period is agreed
15 to by the inmate. At the time of release, the warden or the warden's
16 representative shall ensure that the prisoner has in his or her
17 possession, a discharge medical summary, full medical records,
18 state identification, parole or postrelease community supervision
19 medications, and all property belonging to the prisoner. After
20 discharge, any additional records shall be sent to the prisoner's
21 forwarding address.

22 (10) The secretary shall issue a directive to medical and
23 correctional staff employed by the department that details the
24 guidelines and procedures for initiating a recall and resentencing
25 procedure. The directive shall clearly state that a prisoner who is
26 given a prognosis of six months or less to live is eligible for recall
27 and resentencing consideration, and that recall and resentencing
28 procedures shall be initiated upon that prognosis.

29 (11) The provisions of this subdivision shall be available to an
30 inmate who is sentenced to a county jail pursuant to subdivision
31 (h). For purposes of those inmates, "secretary" or "warden" shall
32 mean the county correctional administrator and "chief medical
33 officer" shall mean a physician designated by the county
34 correctional administrator for this purpose.

35 (f) Notwithstanding any other provision of this section, for
36 purposes of paragraph (3) of subdivision (h), an allegation that a
37 defendant is eligible for state prison due to a prior or current
38 conviction, sentence enhancement, or because he or she is required
39 to register as a sex offender shall not be subject to dismissal
40 pursuant to Section 1385.

1 (g) A sentence to state prison for a determinate term for which
2 only one term is specified, is a sentence to state prison under this
3 section.

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

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

11 (3) Notwithstanding paragraphs (1) and (2), where the defendant
12 (A) has a prior or current felony conviction for a serious felony
13 described in subdivision (c) of Section 1192.7 or a prior or current
14 conviction for a violent felony described in subdivision (c) of
15 Section 667.5, (B) has a prior felony conviction in another
16 jurisdiction for an offense that has all the elements of a serious
17 felony described in subdivision (c) of Section 1192.7 or a violent
18 felony described in subdivision (c) of Section 667.5, (C) is required
19 to register as a sex offender pursuant to Chapter 5.5 (commencing
20 with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime
21 and as part of the sentence an enhancement pursuant to Section
22 186.11 is imposed, an executed sentence for a felony punishable
23 pursuant to this subdivision shall be served in state prison.

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

28 (5) (A) Unless the court finds that, in the interests of justice, it
29 is not appropriate in a particular case, the court, when imposing a
30 sentence pursuant to paragraph (1) or (2), shall suspend execution
31 of a concluding portion of the term for a period selected at the
32 court's discretion.

33 (B) The portion of a defendant's sentenced term that is
34 suspended pursuant to this paragraph shall be known as mandatory
35 supervision, and, unless otherwise ordered by the court, shall
36 commence upon release from physical custody or an alternative
37 custody program, whichever is later. During the period of
38 mandatory supervision, the defendant shall be supervised by the
39 county probation officer in accordance with the terms, conditions,
40 and procedures generally applicable to persons placed on probation,

1 for the remaining unserved portion of the sentence imposed by the
2 court. The period of supervision shall be mandatory, and may not
3 be earlier terminated except by court order. A proceeding to revoke
4 or modify mandatory supervision under this subparagraph shall
5 be conducted pursuant to either subdivisions (a) and (b) of Section
6 1203.2 or Section 1203.3. During the period when the defendant
7 is under that supervision, unless in actual custody related to the
8 sentence imposed by the court, the defendant shall be entitled to
9 only actual time credit against the term of imprisonment imposed
10 by the court. The period of time during any revocation, summary
11 or otherwise, shall not be credited toward any period of supervision,
12 ~~provided~~ *provided*, however, that the defendant shall not remain
13 in custody for a period longer than the term of supervision
14 authorized under this ~~section~~. *section and that the period of the*
15 *stay shall not extend beyond five years from the date of the last*
16 *summary revocation of supervision unless the court finds, based*
17 *on the seriousness of the defendant's current conviction or the*
18 *defendant's past criminal record, that it would be in the interests*
19 *of justice to further extend the stay. In no event shall the stay be*
20 *extended beyond 10 years from the date of the last summary*
21 *revocation of supervision.*

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

25 (7) The sentencing changes made to paragraph (5) by the act
26 that added this paragraph shall become effective and operative on
27 January 1, 2015, and shall be applied prospectively to a person
28 sentenced on or after January 1, 2015.

29 (i) This section shall remain in effect only until January 1, 2020,
30 and as of that date is repealed, unless a later enacted statute, that
31 is enacted before that date, deletes or extends that date.

32 SEC. 2. Section 1170 of the Penal Code, as amended by Section
33 2 of Chapter 378 of the Statutes of 2015, is amended to read:

34 1170. (a) (1) The Legislature finds and declares that the
35 purpose of imprisonment for crime is punishment. This purpose
36 is best served by terms proportionate to the seriousness of the
37 offense with provision for uniformity in the sentences of offenders
38 committing the same offense under similar circumstances. The
39 Legislature further finds and declares that the elimination of
40 disparity and the provision of uniformity of sentences is best

1 achieved by determinate sentences fixed by statute in proportion
2 to the seriousness of the offense as determined by the Legislature
3 to be imposed by the court with specified discretion.

4 (2) Notwithstanding paragraph (1), the Legislature further finds
5 and declares that programs should be available for inmates,
6 including, but not limited to, educational programs, that are
7 designed to prepare nonviolent felony offenders for successful
8 reentry into the community. The Legislature encourages the
9 development of policies and programs designed to educate and
10 rehabilitate nonviolent felony offenders. In implementing this
11 section, the Department of Corrections and Rehabilitation is
12 encouraged to give priority enrollment in programs to promote
13 successful return to the community to an inmate with a short
14 remaining term of commitment and a release date that would allow
15 him or her adequate time to complete the program.

16 (3) In a case in which the punishment prescribed by statute for
17 a person convicted of a public offense is a term of imprisonment
18 in the state prison, or a term pursuant to subdivision (h), of any
19 specification of three time periods, the court shall sentence the
20 defendant to one of the terms of imprisonment specified unless
21 the convicted person is given any other disposition provided by
22 law, including a fine, jail, probation, or the suspension of
23 imposition or execution of sentence or is sentenced pursuant to
24 subdivision (b) of Section 1168 because he or she had committed
25 his or her crime prior to July 1, 1977. In sentencing the convicted
26 person, the court shall apply the sentencing rules of the Judicial
27 Council. The court, unless it determines that there are
28 circumstances in mitigation of the punishment prescribed, shall
29 also impose any other term that it is required by law to impose as
30 an additional term. Nothing in this article shall affect a law that
31 imposes the death penalty, that authorizes or restricts the granting
32 of probation or suspending the execution or imposition of sentence,
33 or expressly provides for imprisonment in the state prison for life,
34 except as provided in paragraph (2) of subdivision (d). In a case
35 in which the amount of preimprisonment credit under Section
36 2900.5 or any other provision of law is equal to or exceeds a
37 sentence imposed pursuant to this chapter, except for a remaining
38 portion of mandatory supervision imposed pursuant to
39 subparagraph (B) of paragraph (5) of subdivision (h), the entire
40 sentence shall be deemed to have been served, except for the

1 remaining period of mandatory supervision, and the defendant
2 shall not be actually delivered to the custody of the secretary or
3 the county correctional administrator. The court shall advise the
4 defendant that he or she shall serve an applicable period of parole,
5 postrelease community supervision, or mandatory supervision and
6 order the defendant to report to the parole or probation office
7 closest to the defendant's last legal residence, unless the in-custody
8 credits equal the total sentence, including both confinement time
9 and the period of parole, postrelease community supervision, or
10 mandatory supervision. The sentence shall be deemed a separate
11 prior prison term or a sentence of imprisonment in a county jail
12 under subdivision (h) for purposes of Section 667.5, and a copy
13 of the judgment and other necessary documentation shall be
14 forwarded to the secretary.

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

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

1 3000 or 3000.08 or postrelease community supervision for a period
2 as provided in Section 3451.

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

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

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

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

1 or her remorse and work towards rehabilitation, and the defendant's
2 statement that one of the following is true:

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

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

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

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

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

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

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

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

39 (ii) The defendant does not have juvenile felony adjudications
40 for assault or other felony crimes with a significant potential for

1 personal harm to victims prior to the offense for which the sentence
2 is being considered for recall.

3 (iii) The defendant committed the offense with at least one adult
4 codefendant.

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

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

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

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

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

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

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

1 and the response to that petition shall be determined, during the
2 25th year of the defendant's sentence.

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

8 (J) This subdivision shall have retroactive application.

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

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

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

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

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

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

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

38 (4) A physician employed by the department who determines
39 that a prisoner has six months or less to live shall notify the chief
40 medical officer of the prognosis. If the chief medical officer

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

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

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

36 (7) A recommendation for recall submitted to the court by the
37 secretary or the Board of Parole Hearings shall include one or more
38 medical evaluations, a postrelease plan, and findings pursuant to
39 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 in his or her
8 possession, a discharge medical summary, full medical records,
9 state identification, parole or postrelease community supervision
10 medications, and all property belonging to the prisoner. After
11 discharge, any additional records shall be sent to the prisoner's
12 forwarding 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 a prisoner who is
17 given a prognosis of six months or less to live is eligible for recall
18 and resentencing consideration, and that recall and resentencing
19 procedures shall be initiated upon that prognosis.

20 (11) The provisions of this subdivision shall be available to an
21 inmate who is sentenced to a county jail pursuant to subdivision
22 (h). For purposes of those inmates, "secretary" or "warden" shall
23 mean the county correctional administrator and "chief medical
24 officer" shall mean a physician designated by the county
25 correctional administrator for this purpose.

26 (f) Notwithstanding any other provision of this section, for
27 purposes of paragraph (3) of subdivision (h), an allegation that a
28 defendant is eligible for state prison due to a prior or current
29 conviction, sentence enhancement, or because he or she is required
30 to register as a sex offender shall not be subject to dismissal
31 pursuant to Section 1385.

32 (g) A sentence to state prison for a determinate term for which
33 only one term is specified, is a sentence to state prison under this
34 section.

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

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

4 (3) Notwithstanding paragraphs (1) and (2), where the defendant
5 (A) has a prior or current felony conviction for a serious felony
6 described in subdivision (c) of Section 1192.7 or a prior or current
7 conviction for a violent felony described in subdivision (c) of
8 Section 667.5, (B) has a prior felony conviction in another
9 jurisdiction for an offense that has all the elements of a serious
10 felony described in subdivision (c) of Section 1192.7 or a violent
11 felony described in subdivision (c) of Section 667.5, (C) is required
12 to register as a sex offender pursuant to Chapter 5.5 (commencing
13 with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime
14 and as part of the sentence an enhancement pursuant to Section
15 186.11 is imposed, an executed sentence for a felony punishable
16 pursuant to this subdivision shall be served in state prison.

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

21 (5) (A) Unless the court finds, in the interest of justice, that it
22 is not appropriate in a particular case, the court, when imposing a
23 sentence pursuant to paragraph (1) or (2), shall suspend execution
24 of a concluding portion of the term for a period selected at the
25 court's discretion.

26 (B) The portion of a defendant's sentenced term that is
27 suspended pursuant to this paragraph shall be known as mandatory
28 supervision, and, unless otherwise ordered by the court, shall
29 commence upon release from physical custody or an alternative
30 custody program, whichever is later. During the period of
31 mandatory supervision, the defendant shall be supervised by the
32 county probation officer in accordance with the terms, conditions,
33 and procedures generally applicable to persons placed on probation,
34 for the remaining unserved portion of the sentence imposed by the
35 court. The period of supervision shall be mandatory, and may not
36 be earlier terminated except by court order. A proceeding to revoke
37 or modify mandatory supervision under this subparagraph shall
38 be conducted pursuant to either subdivisions (a) and (b) of Section
39 1203.2 or Section 1203.3. During the period when the defendant
40 is under that supervision, unless in actual custody related to the

1 sentence imposed by the court, the defendant shall be entitled to
2 only actual time credit against the term of imprisonment imposed
3 by the court. The period of time during any revocation, summary
4 or otherwise, shall not be credited toward any period of supervision,
5 ~~provided~~ *provided*, however, that the defendant shall not remain
6 in custody for a period longer than the term of supervision
7 authorized under this ~~section~~. *section and that the period of the*
8 *stay shall not extend beyond five years from the date of the last*
9 *summary revocation of supervision unless the court finds, based*
10 *on the seriousness of the defendant's current conviction or the*
11 *defendant's past criminal record, that it would be in the interests*
12 *of justice to further extend the stay. In no event shall the stay be*
13 *extended beyond 10 years from the date of the last summary*
14 *revocation of supervision.*

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

18 (7) The sentencing changes made to paragraph (5) by the act
19 that added this paragraph shall become effective and operative on
20 January 1, 2015, and shall be applied prospectively to a person
21 sentenced on or after January 1, 2015.

22 (i) This section shall become operative on January 1, 2020.

23 SEC. 3. Section 1203.2 of the Penal Code is amended to read:

24 1203.2. (a) At any time during the period of supervision of a
25 person (1) released on probation under the care of a probation
26 officer pursuant to this chapter, (2) released on conditional sentence
27 or summary probation not under the care of a probation officer,
28 (3) placed on mandatory supervision pursuant to subparagraph (B)
29 of paragraph (5) of subdivision (h) of Section 1170, (4) subject to
30 revocation of postrelease community supervision pursuant to
31 Section 3455, or (5) subject to revocation of parole supervision
32 pursuant to Section 3000.08, if any probation officer, parole officer,
33 or peace officer has probable cause to believe that the supervised
34 person is violating any term or condition of his or her supervision,
35 the officer may, without warrant or other process and at any time
36 until the final disposition of the case, rearrest the supervised person
37 and bring him or her before the court or the court may, in its
38 discretion, issue a warrant for his or her rearrest. Notwithstanding
39 Section 3056, and unless the supervised person is otherwise serving
40 a period of flash incarceration, whenever a supervised person who

1 is subject to this section is arrested, with or without a warrant or
2 the filing of a petition for revocation as described in subdivision
3 (b), the court may order the release of a supervised person from
4 custody under any terms and conditions the court deems
5 appropriate. Upon rearrest, or upon the issuance of a warrant for
6 rearrest, the court may revoke and terminate the supervision of the
7 person if the interests of justice so require and the court, in its
8 judgment, has reason to believe from the report of the probation
9 or parole officer or otherwise that the person has violated any of
10 the conditions of his or her supervision, has become abandoned
11 to improper associates or a vicious life, or has subsequently
12 committed other offenses, regardless of whether he or she has been
13 prosecuted for those offenses. However, the court shall not
14 terminate parole pursuant to this section. Supervision shall not be
15 revoked for failure of a person to make restitution imposed as a
16 condition of supervision unless the court determines that the
17 defendant has willfully failed to pay and has the ability to pay.
18 Restitution shall be consistent with a person's ability to pay. The
19 period of time during any revocation, summary or otherwise, shall
20 not be credited toward any period of ~~supervision~~. *supervision,*
21 *provided, however, that the period of the stay shall not extend*
22 *beyond five years from the date of the last summary revocation of*
23 *supervision unless the court finds, based on the seriousness of the*
24 *defendant's current conviction or the defendant's past criminal*
25 *record, that it would be in the interests of justice to further extend*
26 *the stay. In no event shall the stay be extended beyond 10 years*
27 *from the date of the last summary revocation of supervision.*

28 (b) (1) Upon its own motion or upon the petition of the
29 supervised person, the probation or parole officer, or the district
30 attorney, the court may modify, revoke, or terminate supervision
31 of the person pursuant to this subdivision, except that the court
32 shall not terminate parole pursuant to this section. The court in the
33 county in which the person is supervised has jurisdiction to hear
34 the motion or petition, or for those on parole, either the court in
35 the county of supervision or the court in the county in which the
36 alleged violation of supervision occurred. A person supervised on
37 parole or postrelease community supervision pursuant to Section
38 3455 may not petition the court pursuant to this section for early
39 release from supervision, and a petition under this section shall
40 not be filed solely for the purpose of modifying parole. This section

1 does not prohibit the court in the county in which the person is
2 supervised or in which the alleged violation of supervision occurred
3 from modifying a person's parole when acting on the court's own
4 motion or a petition to revoke parole. The court shall give notice
5 of its motion, and the probation or parole officer or the district
6 attorney shall give notice of his or her petition to the supervised
7 person, his or her attorney of record, and the district attorney or
8 the probation or parole officer, as the case may be. The supervised
9 person shall give notice of his or her petition to the probation or
10 parole officer and notice of any motion or petition shall be given
11 to the district attorney in all cases. The court shall refer its motion
12 or the petition to the probation or parole officer. After the receipt
13 of a written report from the probation or parole officer, the court
14 shall read and consider the report and either its motion or the
15 petition and may modify, revoke, or terminate the supervision of
16 the supervised person upon the grounds set forth in subdivision
17 (a) if the interests of justice so require.

18 (2) The notice required by this subdivision may be given to the
19 supervised person upon his or her first court appearance in the
20 proceeding. Upon the agreement by the supervised person in
21 writing to the specific terms of a modification or termination of a
22 specific term of supervision, any requirement that the supervised
23 person make a personal appearance in court for the purpose of a
24 modification or termination shall be waived. Prior to the
25 modification or termination and waiver of appearance, the
26 supervised person shall be informed of his or her right to consult
27 with counsel, and if indigent the right to secure court appointed
28 counsel. If the supervised person waives his or her right to counsel
29 a written waiver shall be required. If the supervised person consults
30 with counsel and thereafter agrees to a modification, revocation,
31 or termination of the term of supervision and waiver of personal
32 appearance, the agreement shall be signed by counsel showing
33 approval for the modification or termination and waiver.

34 (c) Upon any revocation and termination of probation the court
35 may, if the sentence has been suspended, pronounce judgment for
36 any time within the longest period for which the person might have
37 been sentenced. However, if the judgment has been pronounced
38 and the execution thereof has been suspended, the court may revoke
39 the suspension and order that the judgment shall be in full force
40 and effect. In either case, the person shall be delivered over to the

1 proper officer to serve his or her sentence, less any credits herein
2 provided for.

3 (d) In any case of revocation and termination of probation,
4 including, but not limited to, cases in which the judgment has been
5 pronounced and the execution thereof has been suspended, upon
6 the revocation and termination, the court may, in lieu of any other
7 sentence, commit the person to the Department of Corrections and
8 Rehabilitation, Division of Juvenile Facilities if he or she is
9 otherwise eligible for that commitment.

10 (e) If probation has been revoked before the judgment has been
11 pronounced, the order revoking probation may be set aside for
12 good cause upon motion made before pronouncement of judgment.
13 If probation has been revoked after the judgment has been
14 pronounced, the judgment and the order which revoked the
15 probation may be set aside for good cause within 30 days after the
16 court has notice that the execution of the sentence has commenced.
17 If an order setting aside the judgment, the revocation of probation,
18 or both is made after the expiration of the probationary period, the
19 court may again place the person on probation for that period and
20 with those terms and conditions as it could have done immediately
21 following conviction.

22 (f) As used in this section, the following definitions shall apply:

23 (1) "Court" means a judge, magistrate, or revocation hearing
24 officer described in Section 71622.5 of the Government Code.

25 (2) "Probation officer" means a probation officer as described
26 in Section 1203 or an officer of the agency designated by the board
27 of supervisors of a county to implement postrelease community
28 supervision pursuant to Section 3451.

29 (3) "Supervised person" means a person who satisfies any of
30 the following:

31 (A) He or she is released on probation subject to the supervision
32 of a probation officer.

33 (B) He or she is released on conditional sentence or summary
34 probation not under the care of a probation officer.

35 (C) He or she is subject to mandatory supervision pursuant to
36 subparagraph (B) of paragraph (5) of subdivision (h) of Section
37 1170.

38 (D) He or she is subject to revocation of postrelease community
39 supervision pursuant to Section 3455.

1 (E) He or she is subject to revocation of parole pursuant to
2 Section 3000.08.

3 (g) This section does not affect the authority of the supervising
4 agency to impose intermediate sanctions, including flash
5 incarceration, to persons supervised on parole pursuant to Section
6 3000.8 or postrelease community supervision pursuant to Part 3
7 (commencing with Section 3450) of Title 2.05.

8 SEC. 4. Section 3456 of the Penal Code is amended to read:

9 3456. (a) The county agency responsible for postrelease
10 supervision, as established by the county board of supervisors
11 pursuant to subdivision (a) of Section 3451, shall maintain
12 postrelease supervision over a person under postrelease supervision
13 pursuant to this title until one of the following events occurs:

14 (1) The person has been subject to postrelease supervision
15 pursuant to this title for three years at which time the offender shall
16 be immediately discharged from postrelease supervision.

17 (2) The person who has been on postrelease supervision
18 continuously for one year with no violations of his or her conditions
19 of postrelease supervision that result in a custodial sanction shall
20 be discharged from supervision within 30 days.

21 (3) Jurisdiction over the person has been terminated by operation
22 of law.

23 (4) Jurisdiction is transferred to another supervising county
24 agency.

25 (5) Jurisdiction is terminated by the revocation hearing officer
26 upon a petition to revoke and terminate supervision by the
27 supervising county agency.

28 (b) A person on postrelease supervision for six consecutive
29 months with no violations of his or her conditions of postrelease
30 supervision that result in a custodial sanction may be considered
31 for immediate discharge by the supervising county.

32 (c) The period of time during any revocation, summary or
33 otherwise, shall not be credited toward any period of supervision,
34 ~~provided~~ *provided*, however, that the person subject to postrelease
35 supervision shall not remain in custody for a period longer than
36 the term of supervision authorized under this ~~section~~ *section and*
37 *that the period of the stay shall not extend beyond five years from*
38 *the date of the last summary revocation of supervision unless the*
39 *court finds, based on the seriousness of the defendant's current*
40 *conviction or the defendant's past criminal record, that it would*

- 1 *be in the interests of justice to further extend the stay. In no event*
- 2 *shall the stay be extended beyond 10 years from the date of the*
- 3 *last summary revocation of supervision.*

O