

AMENDED IN ASSEMBLY MARCH 30, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 2205**

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**Introduced by Assembly Member Dodd**

February 18, 2016

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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, *and would provide that a person not* 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, however, that the defendant shall not remain in custody  
13 for a period longer than the term of supervision authorized under  
14 this section and that the period of the stay shall not extend beyond  
15 five years from the date of the last summary revocation of  
16 supervision unless the court finds, based on the seriousness of the  
17 defendant's current conviction or the defendant's past criminal  
18 record, that it would be in the interests of justice to further extend  
19 the stay. In no event shall the stay be extended beyond 10 years  
20 from the date of the last summary revocation of supervision.

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

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

28 (i) This section shall remain in effect only until January 1, ~~2020~~,  
29 ~~2017~~, and as of that date is repealed, unless a later enacted statute,  
30 that is enacted before that date, deletes or extends that date.

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

33 1170. (a) (1) The Legislature finds and declares that the  
34 purpose of imprisonment for crime is punishment. This purpose  
35 is best served by terms proportionate to the seriousness of the  
36 offense with provision for uniformity in the sentences of offenders  
37 committing the same offense under similar circumstances. The  
38 Legislature further finds and declares that the elimination of  
39 disparity and the provision of uniformity of sentences is best  
40 achieved by determinate sentences fixed by statute in proportion

1 to the seriousness of the offense as determined by the Legislature  
2 to be imposed by the court with specified discretion.

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

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

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

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

35 (c) The court shall state the reasons for its sentence choice on  
36 the record at the time of sentencing. The court shall also inform  
37 the defendant that as part of the sentence after expiration of the  
38 term he or she may be on parole for a period as provided in Section  
39 3000 or 3000.08 or postrelease community supervision for a period  
40 as provided in Section 3451.

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

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

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

(B) The defendant shall file the original petition with the sentencing court. A copy of the petition shall be served on the agency that prosecuted the case. The petition shall include the defendant's statement that he or she was under 18 years of age at the time of the crime and was sentenced to life in prison without the possibility of parole, the defendant's statement describing his or her remorse and work towards rehabilitation, and the defendant's 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 their 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) (i) The prisoner is permanently medically incapacitated  
22 with a medical condition that renders him or her permanently  
23 unable to perform activities of basic daily living, and results in the  
24 prisoner requiring 24-hour total care, including, but not limited to,  
25 coma, persistent vegetative state, brain death,  
26 ventilator-dependency, or loss of control of muscular or  
27 neurological function, and that incapacitation did not exist at the  
28 time of the original sentencing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The portion of a defendant's sentenced term that is suspended pursuant to this paragraph shall be known as mandatory supervision, and, unless otherwise ordered by the court, shall commence upon release from physical custody or an alternative custody program, whichever is later. During the period of mandatory supervision, the defendant shall be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation, for the remaining unserved portion of the sentence imposed by the court. The period of supervision shall be mandatory, and may not be earlier terminated except by court order. A proceeding to revoke or modify mandatory supervision under this subparagraph shall be conducted pursuant to either subdivisions (a) and (b) of Section 1203.2 or Section 1203.3. During the period when the defendant is under that supervision, unless in actual custody related to the sentence imposed by the court, the defendant shall be entitled to only actual time credit against the term of imprisonment imposed by the court. The period of time during any revocation, summary

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

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

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

18 (i) This section shall become operative on January 1, ~~2020~~.  
19 ~~2017~~.

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

21 1203.2. (a) At any time during the period of supervision of a  
22 person (1) released on probation under the care of a probation  
23 officer pursuant to this chapter, (2) released on conditional sentence  
24 or summary probation not under the care of a probation officer,  
25 (3) placed on mandatory supervision pursuant to subparagraph (B)  
26 of paragraph (5) of subdivision (h) of Section 1170, (4) subject to  
27 revocation of postrelease community supervision pursuant to  
28 Section 3455, or (5) subject to revocation of parole supervision  
29 pursuant to Section 3000.08, if any probation officer, parole officer,  
30 or peace officer has probable cause to believe that the supervised  
31 person is violating any term or condition of his or her supervision,  
32 the officer may, without warrant or other process and at any time  
33 until the final disposition of the case, rearrest the supervised person  
34 and bring him or her before the court or the court may, in its  
35 discretion, issue a warrant for his or her rearrest. Notwithstanding  
36 Section 3056, and unless the supervised person is otherwise serving  
37 a period of flash incarceration, whenever a supervised person who  
38 is subject to this section is arrested, with or without a warrant or  
39 the filing of a petition for revocation as described in subdivision  
40 (b), the court may order the release of a supervised person from

1 custody under any terms and conditions the court deems  
2 appropriate. Upon rearrest, or upon the issuance of a warrant for  
3 rearrest, the court may revoke and terminate the supervision of the  
4 person if the interests of justice so require and the court, in its  
5 judgment, has reason to believe from the report of the probation  
6 or parole officer or otherwise that the person has violated any of  
7 the conditions of his or her supervision, has become abandoned  
8 to improper associates or a vicious life, or has subsequently  
9 committed other offenses, regardless of whether he or she has been  
10 prosecuted for those offenses. However, the court shall not  
11 terminate parole pursuant to this section. Supervision shall not be  
12 revoked for failure of a person to make restitution imposed as a  
13 condition of supervision unless the court determines that the  
14 defendant has willfully failed to pay and has the ability to pay.  
15 Restitution shall be consistent with a person's ability to pay. The  
16 period of time during any revocation, summary or otherwise, shall  
17 not be credited toward any period of supervision, provided,  
18 however, that the period of the stay shall not extend beyond five  
19 years from the date of the last summary revocation of supervision  
20 unless the court finds, based on the seriousness of the defendant's  
21 current conviction or the defendant's past criminal record, that it  
22 would be in the interests of justice to further extend the stay. In  
23 no event shall the stay be extended beyond 10 years from the date  
24 of the last summary revocation of supervision.

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

1 motion or a petition to revoke parole. The court shall give notice  
2 of its motion, and the probation or parole officer or the district  
3 attorney shall give notice of his or her petition to the supervised  
4 person, his or her attorney of record, and the district attorney or  
5 the probation or parole officer, as the case may be. The supervised  
6 person shall give notice of his or her petition to the probation or  
7 parole officer and notice of any motion or petition shall be given  
8 to the district attorney in all cases. The court shall refer its motion  
9 or the petition to the probation or parole officer. After the receipt  
10 of a written report from the probation or parole officer, the court  
11 shall read and consider the report and either its motion or the  
12 petition and may modify, revoke, or terminate the supervision of  
13 the supervised person upon the grounds set forth in subdivision  
14 (a) if the interests of justice so require.

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

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



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

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

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

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

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

27 (3) "Supervised person" means a person who satisfies any of  
28 the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The period of time during any revocation, summary or otherwise, shall not be credited toward any period of supervision, provided, however, that the person subject to postrelease supervision shall not remain in custody for a period longer than the term of supervision authorized under this section and that the period of the stay shall not extend beyond five years from the date of the last summary revocation of supervision unless the court finds, based on the seriousness of the defendant's current conviction or the defendant's past criminal record, that it would be in the interests of justice to further extend the stay. In no event

- 1 shall the stay be extended beyond 10 years from the date of the
- 2 last summary revocation of supervision.

O