

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY AUGUST 15, 2016

AMENDED IN ASSEMBLY JUNE 27, 2016

**SENATE BILL**

**No. 6**

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**Introduced by Senator Galgiani**  
(Coauthor: Assembly Member Gonzalez)

December 1, 2014

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An act to amend ~~Sections 1170 and Section 3550~~ *of of, and to add Section 1170.02 to, the Penal Code, relating to parole.*

LEGISLATIVE COUNSEL'S DIGEST

SB 6, as amended, Galgiani. Parole: medical parole: compassionate release.

Existing law provides that the Board of Parole Hearings or its successor in interest shall be the state's parole authority. Existing law requires that a prisoner who is found to be permanently medically incapacitated, as specified, be granted medical parole, if the Board of Parole Hearings determines that the conditions under which the prisoner would be released would not reasonably pose a threat to public safety. Existing law exempts a prisoner sentenced to death, a prisoner sentenced to life without the possibility of parole, and a prisoner who is serving a sentence for which parole is prohibited by initiative statute, from medical parole eligibility.

Existing law authorizes a court to resentence or recall the sentence of a prisoner if the court finds that the prisoner is terminally ill, as specified, or the prisoner is permanently medically incapacitated, as specified, and, in either case, the conditions under which the prisoner would be released or receive treatment do not pose a threat to public

safety. Existing law exempts a prisoner sentenced to death or a term of life without the possibility of parole from eligibility for compassionate release pursuant to these provisions.

This bill would additionally exempt from medical parole eligibility and compassionate release eligibility a prisoner who was convicted of the first-degree murder of a peace officer or a person who had been a peace officer, as provided.

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

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

1     SECTION 1. ~~Section 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 can best be~~  
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 any case in which the punishment prescribed by statute~~  
27    ~~for 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~~

1 specification of three time periods, the court shall sentence the  
2 defendant to one of the terms of imprisonment specified unless  
3 the convicted person is given any other disposition provided by  
4 law, including a fine, jail, probation, or the suspension of  
5 imposition or execution of sentence or is sentenced pursuant to  
6 subdivision (b) of Section 1168 because he or she had committed  
7 his or her crime prior to July 1, 1977. In sentencing the convicted  
8 person, the court shall apply the sentencing rules of the Judicial  
9 Council. The court, unless it determines that there are  
10 circumstances in mitigation of the punishment prescribed, shall  
11 also impose any other term that it is required by law to impose as  
12 an additional term. Nothing in this article shall affect any provision  
13 of law that imposes the death penalty, that authorizes or restricts  
14 the granting of probation or suspending the execution or imposition  
15 of sentence, or expressly provides for imprisonment in the state  
16 prison for life, except as provided in paragraph (2) of subdivision  
17 (d). In any case in which the amount of preimprisonment credit  
18 under Section 2900.5 or any other law is equal to or exceeds any  
19 sentence imposed pursuant to this chapter, except for the remaining  
20 portion of mandatory supervision pursuant to subparagraph (B) of  
21 paragraph (5) of subdivision (h), the entire sentence shall be  
22 deemed to have been served, except for the remaining period of  
23 mandatory supervision, and the defendant shall not be actually  
24 delivered to the custody of the secretary or to the custody of the  
25 county correctional administrator. The court shall advise the  
26 defendant that he or she shall serve an applicable period of parole,  
27 postrelease community supervision, or mandatory supervision,  
28 and order the defendant to report to the parole or probation office  
29 closest to the defendant's last legal residence, unless the in-custody  
30 credits equal the total sentence, including both confinement time  
31 and the period of parole, postrelease community supervision, or  
32 mandatory supervision. The sentence shall be deemed a separate  
33 prior prison term or a sentence of imprisonment in a county jail  
34 under subdivision (h) for purposes of Section 667.5, and a copy  
35 of the judgment and other necessary documentation shall be  
36 forwarded to the secretary.

37 (b) When a judgment of imprisonment is to be imposed and the  
38 statute specifies three possible terms, the choice of the appropriate  
39 term shall rest within the sound discretion of the court. At least  
40 four days prior to the time set for imposition of judgment, either

1 party or the victim, or the family of the victim if the victim is  
2 deceased, may submit a statement in aggravation or mitigation. In  
3 determining the appropriate term, the court may consider the record  
4 in the case, the probation officer's report, other reports, including  
5 reports received pursuant to Section 1203.03, and statements in  
6 aggravation or mitigation submitted by the prosecution, the  
7 defendant, or the victim, or the family of the victim if the victim  
8 is deceased, and any further evidence introduced at the sentencing  
9 hearing. The court shall select the term which, in the court's  
10 discretion, best serves the interests of justice. The court shall set  
11 forth on the record the reasons for imposing the term selected and  
12 the court may not impose an upper term by using the fact of any  
13 enhancement upon which sentence is imposed under any provision  
14 of law. A term of imprisonment shall not be specified if imposition  
15 of sentence is suspended.

16 (e) The court shall state the reasons for its sentence choice on  
17 the record at the time of sentencing. The court shall also inform  
18 the defendant that as part of the sentence after expiration of the  
19 term he or she may be on parole for a period as provided in Section  
20 3000 or 3000.08 or postrelease community supervision for a period  
21 as provided in Section 3451.

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

38 (2) (A) (i) When a defendant who was under 18 years of age  
39 at the time of the commission of the offense for which the  
40 defendant was sentenced to imprisonment for life without the

1 possibility of parole has served at least 15 years of that sentence,  
2 the defendant may submit to the sentencing court a petition for  
3 recall and resentencing.

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

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

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

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

27 (iii) The defendant committed the offense with at least one adult  
28 codefendant.

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

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

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

5 ~~(E) If the court finds by a preponderance of the evidence that~~  
6 ~~the statements in the petition are true, the court shall hold a hearing~~  
7 ~~to consider whether to recall the sentence and commitment~~  
8 ~~previously ordered and to resentence the defendant in the same~~  
9 ~~manner as if the defendant had not previously been sentenced,~~  
10 ~~provided that the new sentence, if any, is not greater than the initial~~  
11 ~~sentence. Victims, or victim family members if the victim is~~  
12 ~~deceased, shall retain the rights to participate in the hearing.~~

13 ~~(F) The factors that the court may consider when determining~~  
14 ~~whether to recall and resentence include, but are not limited to,~~  
15 ~~the following:~~

16 ~~(i) The defendant was convicted pursuant to felony murder or~~  
17 ~~aiding and abetting murder provisions of law.~~

18 ~~(ii) The defendant does not have juvenile felony adjudications~~  
19 ~~for assault or other felony crimes with a significant potential for~~  
20 ~~personal harm to victims prior to the offense for which the sentence~~  
21 ~~is being considered for recall.~~

22 ~~(iii) The defendant committed the offense with at least one adult~~  
23 ~~codefendant.~~

24 ~~(iv) Prior to the offense for which the sentence is being~~  
25 ~~considered for recall, the defendant had insufficient adult support~~  
26 ~~or supervision and had suffered from psychological or physical~~  
27 ~~trauma, or significant stress.~~

28 ~~(v) The defendant suffers from cognitive limitations due to~~  
29 ~~mental illness, developmental disabilities, or other factors that did~~  
30 ~~not constitute a defense, but influenced the defendant's~~  
31 ~~involvement in the offense.~~

32 ~~(vi) The defendant has performed acts that tend to indicate~~  
33 ~~rehabilitation or the potential for rehabilitation, including, but not~~  
34 ~~limited to, availing himself or herself of rehabilitative, educational,~~  
35 ~~or vocational programs, if those programs have been available at~~  
36 ~~his or her classification level and facility, using self-study for~~  
37 ~~self-improvement, or showing evidence of remorse.~~

38 ~~(vii) The defendant has maintained family ties or connections~~  
39 ~~with others through letter writing, calls, or visits, or has eliminated~~

1 ~~contact with individuals outside of prison who are currently~~  
2 ~~involved with crime.~~

3 ~~(viii) The defendant has had no disciplinary actions for violent~~  
4 ~~activities in the last five years in which the defendant was~~  
5 ~~determined to be the aggressor.~~

6 ~~(G) The court shall have the discretion to recall the sentence~~  
7 ~~and commitment previously ordered and to resentence the~~  
8 ~~defendant in the same manner as if the defendant had not~~  
9 ~~previously been sentenced, provided that the new sentence, if any,~~  
10 ~~is not greater than the initial sentence. The discretion of the court~~  
11 ~~shall be exercised in consideration of the criteria in subparagraph~~  
12 ~~(B). Victims, or victim family members if the victim is deceased,~~  
13 ~~shall be notified of the resentencing hearing and shall retain their~~  
14 ~~rights to participate in the hearing.~~

15 ~~(H) If the sentence is not recalled, the defendant may submit~~  
16 ~~another petition for recall and resentencing to the sentencing court~~  
17 ~~when the defendant has been committed to the custody of the~~  
18 ~~department for at least 20 years. If recall and resentencing is not~~  
19 ~~granted under that petition, the defendant may file another petition~~  
20 ~~after having served 24 years. The final petition may be submitted,~~  
21 ~~and the response to that petition shall be determined, during the~~  
22 ~~25th year of the defendant's sentence.~~

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

28 ~~(J) This subdivision shall have retroactive application.~~

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

34 ~~(2) (A) The court shall have the discretion to resentence or~~  
35 ~~recall if the court finds that the facts described in clauses (i) and~~  
36 ~~(ii) or clauses (ii) and (iii) exist:~~

37 ~~(i) The prisoner is terminally ill with an incurable condition~~  
38 ~~caused by an illness or disease that would produce death within~~  
39 ~~six months, as determined by a physician employed by the~~  
40 ~~department.~~

1 ~~(ii) The conditions under which the prisoner would be released~~  
2 ~~or receive treatment do not pose a threat to public safety.~~

3 ~~(iii) The prisoner is permanently medically incapacitated with~~  
4 ~~a medical condition that renders him or her permanently unable~~  
5 ~~to perform activities of basic daily living, and results in the prisoner~~  
6 ~~requiring 24-hour total care, including, but not limited to, coma,~~  
7 ~~persistent vegetative state, brain death, ventilator-dependency, loss~~  
8 ~~of control of muscular or neurological function, and that~~  
9 ~~incapacitation did not exist at the time of the original sentencing.~~

10 ~~(B) This subdivision does not apply to the following:~~

11 ~~(i) A prisoner sentenced to death or a term of life without the~~  
12 ~~possibility of parole.~~

13 ~~(ii) A prisoner who was convicted of first-degree murder if the~~  
14 ~~victim was a peace officer, as defined in Section 830.1, 830.2,~~  
15 ~~830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37,~~  
16 ~~830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who was killed~~  
17 ~~while engaged in the performance of his or her duties, and the~~  
18 ~~individual knew, or reasonably should have known, that the victim~~  
19 ~~was a peace officer engaged in the performance of his or her duties,~~  
20 ~~or the victim was a peace officer or a former peace officer under~~  
21 ~~any of the above-enumerated sections, and was intentionally killed~~  
22 ~~in retaliation for the performance of his or her official duties.~~

23 ~~(C) The Board of Parole Hearings shall make findings pursuant~~  
24 ~~to this subdivision before making a recommendation for resentence~~  
25 ~~or recall to the court.~~

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

29 ~~(4) Any physician employed by the department who determines~~  
30 ~~that a prisoner has six months or less to live shall notify the chief~~  
31 ~~medical officer of the prognosis. If the chief medical officer~~  
32 ~~concurrs with the prognosis, he or she shall notify the warden.~~  
33 ~~Within 48 hours of receiving notification, the warden or the~~  
34 ~~warden's representative shall notify the prisoner of the recall and~~  
35 ~~resentencing procedures, and shall arrange for the prisoner to~~  
36 ~~designate a family member or other outside agent to be notified~~  
37 ~~as to the prisoner's medical condition and prognosis, and as to the~~  
38 ~~recall and resentencing procedures. If the inmate is deemed~~  
39 ~~mentally unfit, the warden or the warden's representative shall~~



1 contact the inmate's emergency contact and provide the information  
2 described in paragraph (2):

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

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

28 ~~(7) Any recommendation for recall submitted to the court by~~  
29 ~~the secretary or the Board of Parole Hearings shall include one or~~  
30 ~~more medical evaluations, a postrelease plan, and findings pursuant~~  
31 ~~to paragraph (2).~~

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

34 ~~(9) If the court grants the recall and resentencing application,~~  
35 ~~the prisoner shall be released by the department within 48 hours~~  
36 ~~of receipt of the court's order, unless a longer time period is agreed~~  
37 ~~to by the inmate. At the time of release, the warden or the warden's~~  
38 ~~representative shall ensure that the prisoner has each of the~~  
39 ~~following in his or her possession: a discharge medical summary,~~  
40 ~~full medical records, state identification, parole or postrelease~~

1 community supervision medications, and all property belonging  
2 to the prisoner. After discharge, any additional records shall be  
3 sent to the prisoner's forwarding address.

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

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

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

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

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

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

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

1 to register as a sex offender pursuant to Chapter 5.5 (commencing  
2 with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime  
3 and as part of the sentence an enhancement pursuant to Section  
4 186.11 is imposed, an executed sentence for a felony punishable  
5 pursuant to this subdivision shall be served in state prison.

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

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

15 (B) ~~The portion of a defendant's sentenced term that is~~  
16 ~~suspended pursuant to this paragraph shall be known as mandatory~~  
17 ~~supervision, and, unless otherwise ordered by the court, shall~~  
18 ~~commence upon release from physical custody or an alternative~~  
19 ~~custody program, whichever is later. During the period of~~  
20 ~~mandatory supervision, the defendant shall be supervised by the~~  
21 ~~county probation officer in accordance with the terms, conditions,~~  
22 ~~and procedures generally applicable to persons placed on probation,~~  
23 ~~for the remaining unserved portion of the sentence imposed by the~~  
24 ~~court. The period of supervision shall be mandatory, and may not~~  
25 ~~be earlier terminated except by court order. Any proceeding to~~  
26 ~~revoke or modify mandatory supervision under this subparagraph~~  
27 ~~shall be conducted pursuant to either subdivisions (a) and (b) of~~  
28 ~~Section 1203.2 or Section 1203.3. During the period when the~~  
29 ~~defendant is under that supervision, unless in actual custody related~~  
30 ~~to the sentence imposed by the court, the defendant shall be entitled~~  
31 ~~to only actual time credit against the term of imprisonment imposed~~  
32 ~~by the court. Any time period which is suspended because a person~~  
33 ~~has absconded shall not be credited toward the period of~~  
34 ~~supervision.~~

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

38 (7) ~~The sentencing changes made to paragraph (5) by the act~~  
39 ~~that added this paragraph shall become effective and operative on~~

1 January 1, 2015, and shall be applied prospectively to any person  
2 sentenced on or after January 1, 2015.

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

6 SEC. 2. Section 1170 of the Penal Code, as amended by Section  
7 2 of Chapter 378 of the Statutes of 2015, is amended to read:

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

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

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

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

29 (b) When a judgment of imprisonment is to be imposed and the  
30 statute specifies three possible terms, the court shall order  
31 imposition of the middle term, unless there are circumstances in  
32 aggravation or mitigation of the crime. At least four days prior to  
33 the time set for imposition of judgment, either party or the victim,  
34 or the family of the victim if the victim is deceased, may submit  
35 a statement in aggravation or mitigation to dispute facts in the  
36 record or the probation officer's report, or to present additional  
37 facts. In determining whether there are circumstances that justify  
38 imposition of the upper or lower term, the court may consider the  
39 record in the case, the probation officer's report, other reports,  
40 including reports received pursuant to Section 1203.03, and

1 statements in aggravation or mitigation submitted by the  
2 prosecution, the defendant, or the victim, or the family of the victim  
3 if the victim is deceased, and any further evidence introduced at  
4 the sentencing hearing. The court shall set forth on the record the  
5 facts and reasons for imposing the upper or lower term. The court  
6 may not impose an upper term by using the fact of any  
7 enhancement upon which sentence is imposed under any provision  
8 of law. A term of imprisonment shall not be specified if imposition  
9 of sentence is suspended.

10 (e) The court shall state the reasons for its sentence choice on  
11 the record at the time of sentencing. The court shall also inform  
12 the defendant that as part of the sentence after expiration of the  
13 term he or she may be on parole for a period as provided in Section  
14 3000 or 3000.08 or postrelease community supervision for a period  
15 as provided in Section 3451.

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

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

38 (ii) Notwithstanding clause (i), this paragraph shall not apply  
39 to defendants sentenced to life without parole for an offense where  
40 the defendant tortured, as described in Section 206, his or her

1 victim or the victim was a public safety official, including any law  
2 enforcement personnel mentioned in Chapter 4.5 (commencing  
3 with Section 830) of Title 3, or any firefighter as described in  
4 Section 245.1, as well as any other officer in any segment of law  
5 enforcement who is employed by the federal government, the state,  
6 or any of its political subdivisions.

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

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

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

21 (iii) The defendant committed the offense with at least one adult  
22 codefendant.

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

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

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

38 (E) If the court finds by a preponderance of the evidence that  
39 the statements in the petition are true, the court shall hold a hearing  
40 to consider whether to recall the sentence and commitment

1 previously ordered and to resentence the defendant in the same  
2 manner as if the defendant had not previously been sentenced,  
3 provided that the new sentence, if any, is not greater than the initial  
4 sentence. Victims, or victim family members if the victim is  
5 deceased, shall retain the rights to participate in the hearing.

6 ~~(F) The factors that the court may consider when determining~~  
7 ~~whether to recall and resentence include, but are not limited to,~~  
8 ~~the following:~~

9 ~~(i) The defendant was convicted pursuant to felony murder or~~  
10 ~~aiding and abetting murder provisions of law.~~

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

15 ~~(iii) The defendant committed the offense with at least one adult~~  
16 ~~codefendant.~~

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

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

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

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

35 ~~(viii) The defendant has had no disciplinary actions for violent~~  
36 ~~activities in the last five years in which the defendant was~~  
37 ~~determined to be the aggressor.~~

38 ~~(G) The court shall have the discretion to recall the sentence~~  
39 ~~and commitment previously ordered and to resentence the~~  
40 ~~defendant in the same manner as if the defendant had not~~



1 previously been sentenced, provided that the new sentence, if any,  
2 is not greater than the initial sentence. The discretion of the court  
3 shall be exercised in consideration of the criteria in subparagraph  
4 (B). Victims, or victim family members if the victim is deceased,  
5 shall be notified of the resentencing hearing and shall retain their  
6 rights to participate in the hearing.

7 (H) If the sentence is not recalled, the defendant may submit  
8 another petition for recall and resentencing to the sentencing court  
9 when the defendant has been committed to the custody of the  
10 department for at least 20 years. If recall and resentencing is not  
11 granted under that petition, the defendant may file another petition  
12 after having served 24 years. The final petition may be submitted,  
13 and the response to that petition shall be determined, during the  
14 25th year of the defendant's sentence.

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

20 (J) This subdivision shall have retroactive application.

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

26 (2) (A) The court shall have the discretion to resentence or  
27 recall if the court finds that the facts described in clauses (i) and  
28 (ii) or clauses (ii) and (iii) exist:

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

33 (ii) The conditions under which the prisoner would be released  
34 or receive treatment do not pose a threat to public safety.

35 (iii) The prisoner is permanently medically incapacitated with  
36 a medical condition that renders him or her permanently unable  
37 to perform activities of basic daily living, and results in the prisoner  
38 requiring 24-hour total care, including, but not limited to, coma,  
39 persistent vegetative state, brain death, ventilator-dependency, loss

1 of control of muscular or neurological function, and that  
2 incapacitation did not exist at the time of the original sentencing.

3 (B) This subdivision does not apply to the following:

4 (i) A prisoner sentenced to death or a term of life without the  
5 possibility of parole.

6 (ii) A prisoner who was convicted of first-degree murder if the  
7 victim was a peace officer, as defined in Section 830.1, 830.2,  
8 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37,  
9 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who was killed  
10 while engaged in the performance of his or her duties, and the  
11 individual knew, or reasonably should have known, that the victim  
12 was a peace officer engaged in the performance of his or her duties,  
13 or the victim was a peace officer or a former peace officer under  
14 any of the above-enumerated sections, and was intentionally killed  
15 in retaliation for the performance of his or her official duties.

16 (C) The Board of Parole Hearings shall make findings pursuant  
17 to this subdivision before making a recommendation for resentencing  
18 or recall to the court.

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

22 (4) Any physician employed by the department who determines  
23 that a prisoner has six months or less to live shall notify the chief  
24 medical officer of the prognosis. If the chief medical officer  
25 concurs with the prognosis, he or she shall notify the warden.  
26 Within 48 hours of receiving notification, the warden or the  
27 warden's representative shall notify the prisoner of the recall and  
28 resentencing procedures, and shall arrange for the prisoner to  
29 designate a family member or other outside agent to be notified  
30 as to the prisoner's medical condition and prognosis, and as to the  
31 recall and resentencing procedures. If the inmate is deemed  
32 mentally unfit, the warden or the warden's representative shall  
33 contact the inmate's emergency contact and provide the information  
34 described in paragraph (2).

35 (5) The warden or the warden's representative shall provide the  
36 prisoner and his or her family member, agent, or emergency  
37 contact, as described in paragraph (4), updated information  
38 throughout the recall and resentencing process with regard to the  
39 prisoner's medical condition and the status of the prisoner's recall  
40 and resentencing proceedings.

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

20     ~~(7) Any recommendation for recall submitted to the court by~~  
21 ~~the secretary or the Board of Parole Hearings shall include one or~~  
22 ~~more medical evaluations, a postrelease plan, and findings pursuant~~  
23 ~~to paragraph (2).~~

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

26     ~~(9) If the court grants the recall and resentencing application,~~  
27 ~~the prisoner shall be released by the department within 48 hours~~  
28 ~~of receipt of the court's order, unless a longer time period is agreed~~  
29 ~~to by the inmate. At the time of release, the warden or the warden's~~  
30 ~~representative shall ensure that the prisoner has each of the~~  
31 ~~following in his or her possession: a discharge medical summary,~~  
32 ~~full medical records, state identification, parole or postrelease~~  
33 ~~community supervision medications, and all property belonging~~  
34 ~~to the prisoner. After discharge, any additional records shall be~~  
35 ~~sent to the prisoner's forwarding address.~~

36     ~~(10) The secretary shall issue a directive to medical and~~  
37 ~~correctional staff employed by the department that details the~~  
38 ~~guidelines and procedures for initiating a recall and resentencing~~  
39 ~~procedure. The directive shall clearly state that any prisoner who~~  
40 ~~is given a prognosis of six months or less to live is eligible for~~

1 recall and resentencing consideration, and that recall and  
2 resentencing procedures shall be initiated upon that prognosis.

3 (11) The provisions of this subdivision shall be available to an  
4 inmate who is sentenced to a county jail pursuant to subdivision  
5 (h). For purposes of those inmates, “secretary” or “warden” shall  
6 mean the county correctional administrator and “chief medical  
7 officer” shall mean a physician designated by the county  
8 correctional administrator for this purpose.

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

15 (g) A sentence to state prison for a determinate term for which  
16 only one term is specified, is a sentence to state prison under this  
17 section.

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

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

25 (3) Notwithstanding paragraphs (1) and (2), where the defendant  
26 (A) has a prior or current felony conviction for a serious felony  
27 described in subdivision (e) of Section 1192.7 or a prior or current  
28 conviction for a violent felony described in subdivision (e) of  
29 Section 667.5, (B) has a prior felony conviction in another  
30 jurisdiction for an offense that has all the elements of a serious  
31 felony described in subdivision (e) of Section 1192.7 or a violent  
32 felony described in subdivision (e) of Section 667.5, (C) is required  
33 to register as a sex offender pursuant to Chapter 5.5 (commencing  
34 with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime  
35 and as part of the sentence an enhancement pursuant to Section  
36 186.11 is imposed, an executed sentence for a felony punishable  
37 pursuant to this subdivision shall be served in state prison.

38 (4) Nothing in this subdivision shall be construed to prevent  
39 other dispositions authorized by law, including pretrial diversion,

1 deferred entry of judgment, or an order granting probation pursuant  
2 to Section 1203.1.

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

8 (B) The portion of a defendant's sentenced term that is  
9 suspended pursuant to this paragraph shall be known as mandatory  
10 supervision, and, unless otherwise ordered by the court, shall  
11 commence upon release from physical custody or an alternative  
12 custody program, whichever is later. During the period of  
13 mandatory supervision, the defendant shall be supervised by the  
14 county probation officer in accordance with the terms, conditions,  
15 and procedures generally applicable to persons placed on probation,  
16 for the remaining unserved portion of the sentence imposed by the  
17 court. The period of supervision shall be mandatory, and may not  
18 be earlier terminated except by court order. Any proceeding to  
19 revoke or modify mandatory supervision under this subparagraph  
20 shall be conducted pursuant to either subdivisions (a) and (b) of  
21 Section 1203.2 or Section 1203.3. During the period when the  
22 defendant is under that supervision, unless in actual custody related  
23 to the sentence imposed by the court, the defendant shall be entitled  
24 to only actual time credit against the term of imprisonment imposed  
25 by the court. Any time period which is suspended because a person  
26 has absconded shall not be credited toward the period of  
27 supervision.

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

31 (7) The sentencing changes made to paragraph (5) by the act  
32 that added this paragraph shall become effective and operative on  
33 January 1, 2015, and shall be applied prospectively to any person  
34 sentenced on or after January 1, 2015.

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

36 *SECTION 1. Section 1170.02 is added to the Penal Code, to*  
37 *read:*

38 *1170.02. A prisoner is not eligible for resentence or recall*  
39 *pursuant to subdivision (e) of Section 1170 if he or she was*  
40 *convicted of first-degree murder if the victim was a peace officer,*

1 *as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33,*  
2 *830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10,*  
3 *830.11, or 830.12, who was killed while engaged in the*  
4 *performance of his or her duties, and the individual knew, or*  
5 *reasonably should have known, that the victim was a peace officer*  
6 *engaged in the performance of his or her duties, or the victim was*  
7 *a peace officer or a former peace officer under any of the*  
8 *above-enumerated sections, and was intentionally killed in*  
9 *retaliation for the performance of his or her official duties.*

10 ~~SEC. 3.~~

11 SEC. 2. Section 3550 of the Penal Code is amended to read:

12 3550. (a) Notwithstanding any other law, except as provided  
13 in subdivision (b), if the head physician of an institution in which  
14 a prisoner is incarcerated determines, as provided in this section,  
15 that the prisoner is permanently medically incapacitated with a  
16 medical condition that renders him or her permanently unable to  
17 perform activities of basic daily living, and results in the prisoner  
18 requiring 24-hour care, and that incapacitation did not exist at the  
19 time of sentencing, the prisoner shall be granted medical parole if  
20 the Board of Parole Hearings determines that the conditions under  
21 which he or she would be released would not reasonably pose a  
22 threat to public safety.

23 (b) This section does not alter or diminish the rights conferred  
24 under the Victims' Bill of Rights Act of 2008 (Marsy's Law).  
25 Subdivision (a) does not apply to any of the following:

26 (1) A prisoner sentenced to death or life in prison without  
27 possibility of parole.

28 (2) A prisoner who is serving a sentence for which parole,  
29 pursuant to subdivision (a), is prohibited by any initiative statute.

30 (3) A prisoner who was convicted of first-degree murder if the  
31 victim was a peace officer, as defined in Section 830.1, 830.2,  
32 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37,  
33 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who was killed  
34 while engaged in the performance of his or her duties, and the  
35 individual knew, or reasonably should have known, that the victim  
36 was a peace officer engaged in the performance of his or her duties,  
37 or the victim was a peace officer or a former peace officer under  
38 any of the above-enumerated sections, and was intentionally killed  
39 in retaliation for the performance of his or her official duties.

1 (c) When a physician employed by the Department of  
2 Corrections and Rehabilitation who is the primary care provider  
3 for a prisoner identifies a prisoner that he or she believes meets  
4 the medical criteria for medical parole specified in subdivision (a),  
5 the primary care physician shall recommend to the head physician  
6 of the institution where the prisoner is located that the prisoner be  
7 referred to the Board of Parole Hearings for consideration for  
8 medical parole. Within 30 days of receiving that recommendation,  
9 if the head physician of the institution concurs in the  
10 recommendation of the primary care physician, he or she shall  
11 refer the matter to the Board of Parole Hearings using a  
12 standardized form and format developed by the department, and  
13 if the head physician of the institution does not concur in the  
14 recommendation, he or she shall provide the primary care physician  
15 with a written explanation of the reasons for denying the referral.

16 (d) Notwithstanding any other provisions of this section, the  
17 prisoner or his or her family member or designee may  
18 independently request consideration for medical parole by  
19 contacting the head physician at the prison or the department.  
20 Within 30 days of receiving the request, the head physician of the  
21 institution shall, in consultation with the prisoner's primary care  
22 physician, make a determination regarding whether the prisoner  
23 meets the criteria for medical parole as specified in subdivision  
24 (a) and, if the head physician of the institution determines that the  
25 prisoner satisfies the criteria set forth in subdivision (a), he or she  
26 shall refer the matter to the Board of Parole Hearings using a  
27 standardized form and format developed by the department. If the  
28 head physician of the institution does not concur in the  
29 recommendation, he or she shall provide the prisoner or his or her  
30 family member or designee with a written explanation of the  
31 reasons for denying the application.

32 (e) The Department of Corrections and Rehabilitation shall  
33 complete parole plans for inmates referred to the Board of Parole  
34 Hearings for medical parole consideration. The parole plans shall  
35 include, but not be limited to, the inmate's plan for residency and  
36 medical care.

37 (f) Notwithstanding any other law, medical parole hearings shall  
38 be conducted by two-person panels consisting of at least one  
39 commissioner. In the event of a tie vote, the matter shall be referred

1 to the full board for a decision. Medical parole hearings may be  
2 heard in absentia.

3 (g) Upon receiving a recommendation from the head physician  
4 of the institution where a prisoner is located for the prisoner to be  
5 granted medical parole pursuant to subdivision (c) or (d), the board,  
6 as specified in subdivision (f), shall make an independent judgment  
7 regarding whether the conditions under which the inmate would  
8 be released pose a reasonable threat to public safety, and make  
9 written findings related thereto.

10 (h) Notwithstanding any other law, the board or the Division  
11 of Adult Parole Operations shall have the authority to impose any  
12 reasonable conditions on prisoners subject to medical parole  
13 supervision pursuant to subdivision (a), including, but not limited  
14 to, the requirement that the parolee submit to electronic monitoring.  
15 As a further condition of medical parole, pursuant to subdivision  
16 (a), the parolee may be required to submit to an examination by a  
17 physician selected by the board for the purpose of diagnosing the  
18 parolee's current medical condition. In the event such an  
19 examination takes place, a report of the examination and diagnosis  
20 shall be submitted to the board by the examining physician. If the  
21 board determines, based on that medical examination, that the  
22 person's medical condition has improved to the extent that the  
23 person no longer qualifies for medical parole, the board shall return  
24 the person to the custody of the department.

25 (1) Notwithstanding any other law establishing maximum  
26 periods for parole, a prisoner sentenced to a determinate term who  
27 is placed on medical parole supervision prior to the earliest possible  
28 release date and who remains eligible for medical parole, shall  
29 remain on medical parole, pursuant to subdivision (a), until that  
30 earliest possible release date, at which time the parolee shall  
31 commence serving that period of parole provided by, and under  
32 the provisions of, Chapter 8 (commencing with Section 3000) of  
33 Title 1.

34 (2) Notwithstanding any other law establishing maximum  
35 periods for parole, a prisoner sentenced to an indeterminate term  
36 who is placed on medical parole supervision prior to the prisoner's  
37 minimum eligible parole date, and who remains eligible for medical  
38 parole, shall remain on medical parole pursuant to subdivision (a)  
39 until that minimum eligible parole date, at which time the parolee



1 shall be eligible for parole consideration under all other provisions  
2 of Chapter 8 (commencing with Section 3000) of Title 1.

3 (i) The Department of Corrections and Rehabilitation shall, at  
4 the time a prisoner is placed on medical parole supervision pursuant  
5 to subdivision (a), ensure that the prisoner has applied for any  
6 federal entitlement programs for which the prisoner is eligible,  
7 and has in his or her possession a discharge medical summary, full  
8 medical records, parole medications, and all property belonging  
9 to the prisoner that was under the control of the department. Any  
10 additional records shall be sent to the prisoner's forwarding address  
11 after release to health care-related parole supervision.

12 (j) The provisions for medical parole set forth in this title shall  
13 not affect an inmate's eligibility for any other form of parole or  
14 release provided by law.

15 (k) (1) Notwithstanding any other law, the Department of  
16 Corrections and Rehabilitation shall give notice to the county of  
17 commitment and the proposed county of release, if that county is  
18 different than the county of commitment, of any medical parole  
19 hearing as described in subdivision (f), and of any medical parole  
20 release as described in subdivision (g).

21 (2) Notice shall be made at least 30 days, or as soon as feasible,  
22 prior to the time any medical parole hearing or medical parole  
23 release is scheduled for an inmate receiving medical parole  
24 consideration, regardless of whether the inmate is sentenced either  
25 determinately or indeterminately.

O