

Introduced by Senator Archuleta

February 21, 2025

An act to amend Sections 3003, 3454, and 3455 of the Penal Code, relating to supervised release.

LEGISLATIVE COUNSEL'S DIGEST

SB 759, as introduced, Archuleta. Crimes: supervised release.

(1) Existing law requires the Department of Corrections and Rehabilitation to provide specified information to local law enforcement agencies regarding an inmate released by the department to the agency's jurisdiction on parole or postrelease community supervision, including a record of the offense for which the inmate was convicted that resulted in parole or postrelease community supervision.

This bill would require the department to also provide the local law enforcement agency with copies of the record of supervision during any prior period of parole.

(2) Existing law requires the department to be the agency primarily responsible for the Law Enforcement Automated Data System and requires county agencies supervising inmates released from prison on postrelease community supervision to provide any information requested by the department to ensure the availability of accurate information regarding inmates released from state prison. Under existing law, this information may include the issuance of warrants, revocations, or the termination of postrelease community supervision.

This bill would require the county to provide the department, upon request, with all records of supervision. By imposing additional duties on county agencies administering postrelease community supervision, this bill would impose a state-mandated local program.

(3) Existing law requires the county agency supervising the release of a person on postrelease community supervision to petition a court to revoke, modify, or terminate postrelease community supervision if the agency determines, following application of its assessment processes, that intermediate sanctions are not appropriate.

This bill would require the county agency supervising the release of a person on postrelease community supervision to also petition a court to revoke, modify, or terminate postrelease community supervision if the person has violated the terms of their release for a 3rd time and the person has committed a new felony or misdemeanor. The bill would allow a peace officer to arrest a person without warrant who fails to appear at a hearing to revoke, modify, or terminate postrelease community supervision. By imposing additional duties on county agencies administering postrelease community supervision, this bill would impose a state-mandated local program.

(4) Existing law allows each county agency responsible for postrelease supervision to determine appropriate responses to alleged violations, which can include a one to 10 consecutive day period of one to 10 consecutive days of flash incarceration.

This bill would require the probation department to notify the court, public defender, district attorney, and sheriff of each imposition of flash incarceration. By imposing additional duties on county agencies administering postrelease community supervision, this bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 3003 of the Penal Code is amended to
2 read:

3 3003. (a) Except as otherwise provided in this section, an
4 inmate who is released on parole or postrelease community
5 supervision as provided by Title 2.05 (commencing with Section
6 3450) shall be returned to the county that was the last legal

1 residence of the inmate prior to the inmate's incarceration. An
2 inmate who is released on parole or postrelease community
3 supervision as provided by Title 2.05 (commencing with Section
4 3450) and who was committed to prison for a sex offense for which
5 registration is required pursuant to Section 290, shall, through all
6 efforts reasonably possible, be returned to the city that was the last
7 legal residence of the inmate prior to incarceration or a close
8 geographic location in which the inmate has family, social ties, or
9 economic ties and access to reentry services, unless return to that
10 location would violate any other law or pose a risk to the inmate's
11 victim. For purposes of this subdivision, "last legal residence"
12 shall not be construed to mean the county or city wherein the
13 inmate committed an offense while confined in a state prison or
14 local jail facility or while confined for treatment in a state hospital.

15 (b) Notwithstanding subdivision (a), an inmate may be returned
16 to another county or city if that would be in the best interests of
17 the public. When setting conditions of parole, if the Board of Parole
18 Hearings, upon granting parole to a person, or the Department of
19 Corrections and Rehabilitation decides on a return to another
20 county or city, it shall place its reasons in writing in the parolee's
21 permanent record and the reasons shall be included in the notice
22 to the sheriff or chief of police pursuant to Section 3058.6. In
23 making its decision, the paroling authority shall consider, among
24 others, the following factors, giving the greatest weight to the
25 protection of the victim and the safety of the community:

26 (1) The need to protect the life or safety of a victim, the parolee,
27 a witness, or any other person.

28 (2) Public concern that would reduce the chance that the
29 inmate's parole would be successfully completed.

30 (3) The verified existence of a work offer, or an educational or
31 vocational training program chosen by the inmate in another
32 county.

33 (4) The existence of family in another county with whom the
34 inmate has maintained strong ties and whose support would
35 increase the chance that the inmate's parole would be successfully
36 completed.

37 (5) The lack of necessary outpatient treatment programs for
38 parolees receiving treatment pursuant to Section 2960 in the county
39 of last legal residence.

1 (6) The existence of a housing option in another county,
2 including with a relative or acceptance into a transitional housing
3 program of choice.

4 (c) (1) The Department of Corrections and Rehabilitation, in
5 determining an out-of-county commitment pursuant to this section,
6 shall give priority to the safety of the community and any witnesses
7 and victims.

8 (2) Absent evidence that parole transfer would present a threat
9 to public safety, the inmate shall be released to the county in the
10 location of a verified existence of a postsecondary educational or
11 vocational training program of the inmate's choice, or of a verified
12 existence of a work offer, the inmate's family, outpatient treatment,
13 or housing. The burden of verifying the existence of an educational
14 or vocational training program or a work offer shall be on the
15 person on parole. The Department of Corrections and
16 Rehabilitation shall complete the parole transfer process prior to
17 release and ensure the person is released from prison directly to
18 the county where the postsecondary educational or vocational
19 training program chosen by the inmate, or the work offer, the
20 inmate's family, outpatient treatment, or housing is located. This
21 paragraph shall not apply to placement and participation in a
22 transitional housing program during the first year after release
23 pursuant to a condition of parole imposed by the Board of Parole
24 Hearings upon granting parole at a hearing conducted under Article
25 3 (commencing with Section 3040).

26 (3) Absent evidence that travel outside of the county of
27 commitment would present a threat to public safety, a person on
28 parole shall be granted a permit to travel outside the county of
29 commitment to a location where the person has postsecondary
30 educational or vocational training program opportunities, including
31 classes, conferences, or extracurricular educational activities, an
32 employment opportunity, or inpatient or outpatient treatment. A
33 parole agent shall provide a written response of their decision
34 within 14 days after receiving the request for a travel permit. If
35 the parole agent denies the request for an out-of-county travel
36 permit, they shall include in writing the reasons the travel would
37 present a threat to public safety.

38 (4) Absent evidence that transfer to a county outside the county
39 of commitment would present a threat to public safety, a person
40 on parole shall be granted approval of an application to transfer

1 residency and parole to another county where the person has a
2 verified existence of a postsecondary educational or vocational
3 training program chosen by the inmate, or a verified existence of
4 a work offer, the person's family, inpatient or outpatient treatment,
5 or housing. The burden of verifying the existence of an educational
6 or vocational training program or a work offer shall be on the
7 person on parole. A parole agent shall provide a written response
8 of their decision within 14 days after receiving the request for the
9 transfer application. If the parole agent denies the application for
10 a transfer of parole to another county, they shall include in writing
11 the reasons the transfer would present a threat to public safety.
12 This paragraph shall not apply to placement and participation in
13 a transitional housing program during the first year after release
14 pursuant to a condition of parole imposed by the Board of Parole
15 Hearings upon granting parole at a hearing conducted under Article
16 3 (commencing with Section 3040).

17 (5) The department and probation officers may extend
18 paragraphs (2) through (4), inclusive, to individuals released on
19 postrelease community supervision. The Legislature finds and
20 declares that the department and probation officers are strongly
21 encouraged to apply this paragraph to individuals released on
22 postrelease community supervision.

23 (d) In making its decision about an inmate who participated in
24 a joint venture program pursuant to Article 1.5 (commencing with
25 Section 2717.1) of Chapter 5, the paroling authority shall release
26 the inmate to the county where the joint venture program employer
27 is located if that employer states to the paroling authority that the
28 employer intends to employ the inmate upon release.

29 (e) (1) The following information, if available, shall be released
30 by the Department of Corrections and Rehabilitation to local law
31 enforcement agencies regarding a paroled inmate or inmate placed
32 on postrelease community supervision pursuant to Title 2.05
33 (commencing with Section 3450) who is released in their
34 jurisdictions:

35 (A) Last, first, and middle names.

36 (B) Birth date.

37 (C) Sex, race, height, weight, and hair and eye color.

38 (D) Date of parole or placement on postrelease community
39 supervision and discharge.

1 (E) Registration status, if the inmate is required to register as a
2 result of a controlled substance, sex, or arson offense.

3 (F) California Criminal Information Number, FBI number, social
4 security number, and driver's license number.

5 (G) County of commitment.

6 (H) A description of scars, marks, and tattoos on the inmate.

7 (I) Offense or offenses for which the inmate was convicted that
8 resulted in parole or postrelease community supervision in this
9 instance.

10 (J) Address, including all of the following information:

11 (i) Street name and number. Post office box numbers are not
12 acceptable for purposes of this subparagraph.

13 (ii) City and ZIP Code.

14 (iii) Date that the address provided pursuant to this subparagraph
15 was proposed to be effective.

16 (K) Contact officer and unit, including all of the following
17 information:

18 (i) Name and telephone number of each contact officer.

19 (ii) Contact unit type of each contact officer such as units
20 responsible for parole, registration, or county probation.

21 (L) A digitized image of the photograph and at least a single
22 digit fingerprint of the parolee.

23 (M) A geographic coordinate for the inmate's residence location
24 for use with a Geographical Information System (GIS) or
25 comparable computer program.

26 (N) *Copies of the record of supervision during any prior period*
27 *of parole.*

28 (2) Unless the information is unavailable, the Department of
29 Corrections and Rehabilitation shall electronically transmit to the
30 county agency identified in subdivision (a) of Section 3451 the
31 inmate's tuberculosis status, specific medical, mental health, and
32 outpatient clinic needs, and any medical concerns or disabilities
33 for the county to consider as the offender transitions onto
34 postrelease community supervision pursuant to Section 3450, for
35 the purpose of identifying the medical and mental health needs of
36 the individual. All transmissions to the county agency shall be in
37 compliance with applicable provisions of the federal Health
38 Insurance Portability and Accountability Act of 1996 (HIPAA)
39 (Public Law 104-191), the federal Health Information Technology
40 for Economic and Clinical Health Act (HITECH) (Public Law

1 111-005), and the implementing of privacy and security regulations
2 in Parts 160 and 164 of Title 45 of the Code of Federal Regulations.
3 This paragraph shall not take effect until the Secretary of the United
4 States Department of Health and Human Services, or the secretary's
5 designee, determines that this provision is not preempted by
6 HIPAA.

7 (3) Except for the information required by paragraph (2), the
8 information required by this subdivision shall come from the
9 statewide parolee database. The information obtained from each
10 source shall be based on the same timeframe.

11 (4) All of the information required by this subdivision shall be
12 provided utilizing a computer-to-computer transfer in a format
13 usable by a desktop computer system. The transfer of this
14 information shall be continually available to local law enforcement
15 agencies upon request.

16 (5) The unauthorized release or receipt of the information
17 described in this subdivision is a violation of Section 11143.

18 (f) Notwithstanding any other law, if the victim or witness has
19 requested additional distance in the placement of the inmate on
20 parole, and if the Board of Parole Hearings or the Department of
21 Corrections and Rehabilitation finds that there is a need to protect
22 the life, safety, or well-being of the victim or witness, an inmate
23 who is released on parole shall not be returned to a location within
24 35 miles of the actual residence of a victim of, or a witness to, any
25 of the following crimes:

26 (1) A violent felony as defined in paragraphs (1) to (7),
27 inclusive, and paragraphs (11) and (16) of subdivision (c) of
28 Section 667.5.

29 (2) A felony in which the defendant inflicts great bodily injury
30 on a person, other than an accomplice, that has been charged and
31 proved as provided for in Section 12022.53, 12022.7, or 12022.9.

32 (3) A violation of paragraph (1), (3), or (4) of subdivision (a)
33 of Section 261, subdivision (f), (g), or (i) of Section 286,
34 subdivision (f), (g), or (i) of Section 287 or of former Section 288a,
35 or subdivision (b), (d), or (e) of Section 289.

36 (g) Notwithstanding any other law, an inmate who is released
37 on parole for a violation of Section 288 or 288.5 whom the
38 Department of Corrections and Rehabilitation determines poses a
39 high risk to the public shall not be placed or reside, for the duration
40 of the inmate's parole, within one-half mile of a public or private

1 school including any or all of kindergarten and grades 1 to 12,
2 inclusive.

3 (h) Notwithstanding any other law, an inmate who is released
4 on parole or postrelease community supervision for a stalking
5 offense shall not be returned to a location within 35 miles of the
6 victim's or witness' actual residence or place of employment if
7 the victim or witness has requested additional distance in the
8 placement of the inmate on parole or postrelease community
9 supervision, and if the Board of Parole Hearings or the Department
10 of Corrections and Rehabilitation, or the supervising county
11 agency, as applicable, finds that there is a need to protect the life,
12 safety, or well-being of the victim. If an inmate who is released
13 on postrelease community supervision cannot be placed in the
14 inmate's county of last legal residence in compliance with this
15 subdivision, the supervising county agency may transfer the inmate
16 to another county upon approval of the receiving county.

17 (i) The authority shall give consideration to the equitable
18 distribution of parolees and the proportion of out-of-county
19 commitments from a county compared to the number of
20 commitments from that county when making parole decisions.

21 (j) An inmate may be paroled to another state pursuant to any
22 other law. The Department of Corrections and Rehabilitation shall
23 coordinate with local entities regarding the placement of inmates
24 placed out of state on postrelease community supervision pursuant
25 to Title 2.05 (commencing with Section 3450).

26 (k) (1) Except as provided in paragraph (2), the Department of
27 Corrections and Rehabilitation shall be the agency primarily
28 responsible for, and shall have control over, the program, resources,
29 and staff implementing the Law Enforcement Automated Data
30 System (LEADS) in conformance with subdivision (e). County
31 agencies supervising inmates released to postrelease community
32 supervision pursuant to Title 2.05 (commencing with Section 3450)
33 shall provide any information requested by the department to
34 ensure the availability of accurate information regarding inmates
35 released from state prison. This information may include *all*
36 *records of supervision and* the issuance of warrants, revocations,
37 or the termination of postrelease community supervision. On or
38 before August 1, 2011, county agencies designated to supervise
39 inmates released to postrelease community supervision shall notify

1 the department that the county agencies have been designated as
2 the local entity responsible for providing that supervision.

3 (2) Notwithstanding paragraph (1), the Department of Justice
4 shall be the agency primarily responsible for the proper release of
5 information under LEADS that relates to fingerprint cards.

6 (l) In addition to the requirements under subdivision (k), the
7 Department of Corrections and Rehabilitation shall submit to the
8 Department of Justice data to be included in the supervised release
9 file of the California Law Enforcement Telecommunications
10 System (CLETS) so that law enforcement can be advised through
11 CLETS of all persons on postrelease community supervision and
12 the county agency designated to provide supervision. The data
13 required by this subdivision shall be provided via electronic
14 transfer.

15 ~~(m) This section shall become operative on January 1, 2024.~~

16 SEC. 2. Section 3454 of the Penal Code is amended to read:

17 3454. (a) Each supervising county agency, as established by
18 the county board of supervisors pursuant to subdivision (a) of
19 Section 3451, shall establish a review process for assessing and
20 refining a person's program of postrelease supervision. Any
21 additional postrelease supervision conditions shall be reasonably
22 related to the underlying offense for which the offender spent time
23 in prison, or to the offender's risk of recidivism, and the offender's
24 criminal history, and be otherwise consistent with law.

25 (b) Each county agency responsible for postrelease supervision,
26 as established by the county board of supervisors pursuant to
27 subdivision (a) of Section 3451, may determine additional
28 appropriate conditions of supervision listed in Section 3453
29 consistent with public safety, including the use of continuous
30 electronic monitoring as defined in Section 1210.7, order the
31 provision of appropriate rehabilitation and treatment services,
32 determine appropriate incentives, and determine and order
33 appropriate responses to alleged violations, which can include, but
34 shall not be limited to, immediate, structured, and intermediate
35 sanctions up to and including referral to a reentry court pursuant
36 to Section 3015, or flash incarceration in a city or county jail.
37 Periods of flash incarceration are encouraged as one method of
38 punishment for violations of an offender's condition of postrelease
39 supervision.

(c) As used in this title, “flash incarceration” is a period of detention in a city or county jail due to a violation of an offender’s conditions of postrelease supervision. The length of the detention period can range between one and 10 consecutive days. Flash incarceration is a tool that may be used by each county agency responsible for postrelease supervision. Shorter, but if necessary more frequent, periods of detention for violations of an offender’s postrelease supervision conditions shall appropriately punish an offender while preventing the disruption in a work or home establishment that typically arises from longer term revocations.

(d) *Upon a decision to impose a period of flash incarceration, the probation department shall notify the court, public defender, district attorney, and sheriff of each imposition of flash incarceration.*

SEC. 3. Section 3455 of the Penal Code is amended to read:

3455. (a) If the supervising county agency has determined, following application of its assessment processes, that intermediate sanctions as authorized in subdivision (b) of Section 3454 are not appropriate, ~~the~~ *or if the supervised person has violated the terms of their release for a third time and has committed a new felony or misdemeanor, the* supervising county agency shall petition the court pursuant to Section 1203.2 to revoke, modify, or terminate postrelease community supervision. At any point during the process initiated pursuant to this section, a person may waive, in writing, ~~his or her~~ *their* right to counsel, admit the violation of ~~his or her~~ *their* postrelease community supervision, waive a court hearing, and accept the proposed modification of ~~his or her~~ *their* postrelease community supervision. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of postrelease community supervision, the circumstances of the alleged underlying violation, the history and background of the violator, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of postrelease community supervision, the revocation hearing officer shall have authority to do all of the following:

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

4 (2) Revoke and terminate postrelease community supervision
5 and order the person to confinement in a county jail.

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

8 (b) (1) At any time during the period of postrelease community
9 supervision, if a peace-officer ~~officer~~, *including a probation officer*,
10 has probable cause to believe a person subject to postrelease
11 community supervision is violating any term or condition of ~~his~~
12 ~~or her~~ *their* release, *or has failed to appear at a hearing pursuant*
13 *to Section 1203.2 to revoke, modify, or terminate postrelease*
14 *community supervision*, the officer may, without a warrant or other
15 process, arrest the person and bring ~~him or her~~ *them* before the
16 supervising county agency established by the county board of
17 supervisors pursuant to subdivision (a) of Section 3451.
18 Additionally, an officer employed by the supervising county agency
19 may seek a warrant and a court or its designated hearing officer
20 appointed pursuant to Section 71622.5 of the Government Code
21 shall have the authority to issue a warrant for that person's arrest.

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

28 (3) Unless a person subject to postrelease community
29 supervision is otherwise serving a period of flash incarceration,
30 whenever a person who is subject to this section is arrested, with
31 or without a warrant or the filing of a petition for revocation, the
32 court may order the release of the person under supervision from
33 custody under any terms and conditions the court deems
34 appropriate.

35 (c) The revocation hearing shall be held within a reasonable
36 time after the filing of the revocation petition. Except as provided
37 in paragraph (3) of subdivision (b), based upon a showing of a
38 preponderance of the evidence that a person under supervision
39 poses an unreasonable risk to public safety, or that the person may
40 not appear if released from custody, or for any reason in the

1 interests of justice, the supervising county agency shall have the
2 authority to make a determination whether the person should
3 remain in custody pending the first court appearance on a petition
4 to revoke postrelease community supervision, and upon that
5 determination, may order the person confined pending ~~his or her~~
6 *their* first court appearance.

7 (d) Confinement pursuant to paragraphs (1) and (2) of
8 subdivision (a) shall not exceed a period of 180 days in a county
9 jail for each custodial sanction.

10 (e) A person shall not remain under supervision or in custody
11 pursuant to this title on or after three years from the date of the
12 person's initial entry onto postrelease community supervision,
13 except when ~~his or her~~ *their* supervision is tolled pursuant to
14 Section 1203.2 or subdivision (b) of Section 3456.

15 SEC. 4. To the extent that this act has an overall effect of
16 increasing the costs already borne by a local agency for programs
17 or levels of service mandated by the 2011 Realignment Legislation
18 within the meaning of Section 36 of Article XIII of the California
19 Constitution, it shall apply to local agencies only to the extent that
20 the state provides annual funding for the cost increase. Any new
21 program or higher level of service provided by a local agency
22 pursuant to this act above the level for which funding has been
23 provided shall not require a subvention of funds by the state or
24 otherwise be subject to Section 6 of Article XIII B of the California
25 Constitution.