

ASSEMBLY BILL

No. 47

Introduced by Assembly Member Stephanie Nguyen

December 2, 2024

An act to amend Section 3055 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL’S DIGEST

AB 47, as introduced, Stephanie Nguyen. Elderly Parole Program.

Existing law establishes the Elderly Parole Program for the purpose of reviewing the parole suitability of inmates who are 50 years of age or older and who have served a minimum of 20 years of continuous incarceration on their sentence. Existing law requires the Board of Parole Hearings, when considering the release of qualifying inmates, to give special consideration to whether certain criteria have reduced the elderly inmate’s risk for future violence. Existing law excludes various persons from these provisions, including persons convicted of serious felonies or persons sentenced to life in prison without the possibility of parole.

This bill would additionally exclude persons required to register as sexual offenders, habitual sexual offenders, and persons convicted of various sexual offenses, including rape or sodomy.

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 3055 of the Penal Code is amended to
2 read:

1 3055. (a) The Elderly Parole Program is hereby established,
2 to be administered by the Board of Parole Hearings, for purposes
3 of reviewing the parole suitability of any inmate who is 50 years
4 of age or older and has served a minimum of 20 years of continuous
5 incarceration on the inmate's current sentence, serving either a
6 determinate or indeterminate sentence.

7 (b) (1) For purposes of this code, the term "elderly parole
8 eligible date" means the date on which an inmate who qualifies as
9 an elderly offender is eligible for release from prison.

10 (2) For purposes of this section, "incarceration" means detention
11 in a city or county jail, local juvenile facility, a mental health
12 facility, ~~a Division of Juvenile Justice facility~~, or a Department of
13 Corrections and Rehabilitation ~~facility~~. *facility for adults or*
14 *juveniles.*

15 (c) When considering the release of an inmate specified by
16 subdivision (a) pursuant to Section 3041, the board shall give
17 special consideration to whether age, time served, and diminished
18 physical condition, if any, have reduced the elderly inmate's risk
19 for future violence.

20 (d) When scheduling a parole consideration hearing date
21 pursuant to subdivision (b) of Section 3041.5 or when considering
22 a request for an advance hearing pursuant to subdivision (d) of
23 Section 3041.5, the board shall consider whether the inmate meets
24 or will meet the criteria specified in subdivision (a).

25 (e) An individual who is subject to this section shall meet with
26 the board pursuant to subdivision (a) of Section 3041. If an inmate
27 is found suitable for parole under the Elderly Parole Program, the
28 board shall release the individual on parole as provided in Section
29 3041.

30 (f) If parole is not granted, the board shall set the time for a
31 subsequent elderly parole hearing in accordance with paragraph
32 (3) of subdivision (b) of Section 3041.5. ~~No~~ A subsequent elderly
33 parole hearing shall *not* be necessary if the offender is released
34 pursuant to other statutory provisions prior to the date of the
35 subsequent hearing.

36 (g) This section does not apply to cases in which sentencing
37 occurs pursuant to Section 1170.12, subdivisions (b) to (i),
38 inclusive, of Section 667, or in cases which an individual was
39 sentenced to life in prison without the possibility of parole or death.

1 *(h) This section does not apply to cases in which sentencing*
2 *occurs pursuant to Section 667.61 or 667.71, or cases where an*
3 *individual is required to register pursuant to subdivision (c) of*
4 *Section 290.*

5 ~~(h)~~

6 *(i) This section does not apply if the person was convicted of*
7 *first-degree murder if the victim was a peace officer, as defined*
8 *in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34,*
9 *830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11, or*
10 *830.12, who was killed while engaged in the performance of their*
11 *duties, and the individual knew, or reasonably should have known,*
12 *that the victim was a peace officer engaged in the performance of*
13 *their duties, or the victim was a peace officer or a former peace*
14 *officer under any of the above-enumerated sections, and was*
15 *intentionally killed in retaliation for the performance of their*
16 *official duties.*

17 ~~(i)~~

18 *(j) This section does not alter the rights of victims at parole*
19 *hearings.*

20 ~~(j)~~

21 *(k) By December 31, 2022, the board shall complete all elderly*
22 *parole hearings for individuals who were sentenced to determinate*
23 *or indeterminate terms and who, on the effective date of the bill*
24 *that added this subdivision, are or will be entitled to have their*
25 *parole suitability considered at an elderly parole hearing before*
26 *January 1, 2023.*