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AB-335 Parole: placement at release. (2017-2018)

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Assembly Bill No. 335

CHAPTER 523

An act to amend Section 3003 of the Penal Code, relating to parole.

[Approved by Governor October 06, 2017. Filed with Secretary of State October 06, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 335, Kiley. Parole: placement at release.

Existing law provides that an inmate who has committed certain specified offenses and is released on parole shall not be returned to a location within 35 miles of the residence of a victim of or witness to that offense if the victim or witness makes such a request and the Board of Parole Hearings or the Department of Corrections and Rehabilitation finds that the placement is necessary to protect the victim or witness.

This bill would add certain sexual penetration offenses as well as several sexual assault offenses in which the victim is unconscious or unable to give consent to the list of offenses to which this release restriction applies.

This bill would incorporate additional changes to Section 3003 of the Penal Code proposed by AB 1408 to be operative only if this bill and AB 1408 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

3003. (a) Except as otherwise provided in this section, an inmate who is released on parole or postrelease supervision as provided by Title 2.05 (commencing with Section 3450) shall be returned to the county that was the last legal residence of the inmate prior to his or her incarceration. For purposes of this subdivision, "last legal residence" shall not be construed to mean the county wherein the inmate committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county if that would be in the best interests of the public. If the Board of Parole Hearings setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, as determined by the parole consideration panel, or the Department of Corrections and Rehabilitation setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record and include these reasons in the notice to the sheriff or chief of police pursuant to Section 3058.6. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

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

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

(3) The verified existence of a work offer, or an educational or vocational training program.

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

(5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) The Department of Corrections and Rehabilitation, in determining an out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.

(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall give serious consideration to releasing him or her to the county where the joint venture program employer is located if that employer states to the paroling authority that he or she intends to employ the inmate upon release.

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

(A) Last, first, and middle names.

(B) Birth date.

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

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

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

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

(G) County of commitment.

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

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

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

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

(ii) City and ZIP Code.

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

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

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

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

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

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

(2) Unless the information is unavailable, the Department of Corrections and Rehabilitation shall electronically transmit to the county agency identified in subdivision (a) of Section 3451 the inmate's tuberculosis status, specific medical, mental health, and outpatient clinic needs, and any medical concerns or disabilities for the county to consider as the offender transitions onto postrelease community supervision pursuant to Section 3450, for the purpose of identifying the medical and mental health needs of the individual. All transmissions to the county agency shall be in compliance with applicable provisions of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191), the federal Health Information Technology for Clinical Health Act (HITECH) (Public Law 111-005), and the implementing of privacy and security regulations in

Parts 160 and 164 of Title 45 of the Code of Federal Regulations. This paragraph shall not take effect until the Secretary of the United States Department of Health and Human Services, or his or her designee, determines that this provision is not preempted by HIPAA.

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

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

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

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

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

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

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

(g) Notwithstanding any other law, an inmate who is released on parole for a violation of Section 288 or 288.5 whom the Department of Corrections and Rehabilitation determines poses a high risk to the public shall not be placed or reside, for the duration of his or her parole, within one-half mile of a public or private school including any or all of kindergarten and grades 1 to 12, inclusive.

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

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

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

(k) (1) Except as provided in paragraph (2), the Department of Corrections and Rehabilitation shall be the agency primarily responsible for, and shall have control over, the program, resources, and staff implementing the Law Enforcement Automated Data System (LEADS) in conformance with subdivision (e). County agencies supervising inmates released to postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) shall provide any information requested by the department to ensure the availability of accurate information regarding inmates released from state prison. This information may include the issuance of warrants, revocations, or the termination of postrelease community supervision. On or before August 1, 2011, county agencies designated to supervise inmates released to postrelease community supervision shall notify the department that the county agencies have been designated as the local entity responsible for providing that supervision.

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

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

SEC. 1.5. Section 3003 of the Penal Code is amended to read:

3003. (a) Except as otherwise provided in this section, an inmate who is released on parole or postrelease supervision as provided by Title 2.05 (commencing with Section 3450) shall be returned to the county that was the last legal residence of the inmate prior to his or her incarceration. For purposes of this subdivision, "last legal residence" shall not be construed to mean the county wherein the inmate committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county if that would be in the best interests of the public. If the Board of Parole Hearings setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, as determined by the parole consideration panel, or the Department of Corrections and Rehabilitation setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record and include these reasons in the notice to the sheriff or chief of police pursuant to Section 3058.6. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

- (1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.
- (2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.
- (3) The verified existence of a work offer, or an educational or vocational training program.
- (4) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.
- (5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) The Department of Corrections and Rehabilitation, in determining an out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.

(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall give serious consideration to releasing him or her to the county where the joint venture program employer is located if that employer states to the paroling authority that he or she intends to employ the inmate upon release.

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

- (A) Last, first, and middle names.
- (B) Birth date.
- (C) Sex, race, height, weight, and hair and eye color.
- (D) Date of parole or placement on postrelease community supervision and discharge.
- (E) Registration status, if the inmate is required to register as a result of a controlled substance, sex, or arson offense.
- (F) California Criminal Information Number, FBI number, social security number, and driver's license number.
- (G) County of commitment.
- (H) A description of scars, marks, and tattoos on the inmate.
- (I) Offense or offenses for which the inmate was convicted that resulted in parole or postrelease community supervision in this instance.
- (J) Address, including all of the following information:
 - (i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.
 - (ii) City and ZIP Code.
 - (iii) Date that the address provided pursuant to this subparagraph was proposed to be effective.
- (K) Contact officer and unit, including all of the following information:

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

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

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

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

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

(2) Unless the information is unavailable, the Department of Corrections and Rehabilitation shall electronically transmit to the county agency identified in subdivision (a) of Section 3451 the inmate's tuberculosis status, specific medical, mental health, and outpatient clinic needs, and any medical concerns or disabilities for the county to consider as the offender transitions onto postrelease community supervision pursuant to Section 3450, for the purpose of identifying the medical and mental health needs of the individual. All transmissions to the county agency shall be in compliance with applicable provisions of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191), the federal Health Information Technology for Clinical Health Act (HITECH) (Public Law 111-005), and the implementing of privacy and security regulations in Parts 160 and 164 of Title 45 of the Code of Federal Regulations. This paragraph shall not take effect until the Secretary of the United States Department of Health and Human Services, or his or her designee, determines that this provision is not preempted by HIPAA.

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

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

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

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(g) Notwithstanding any other law, an inmate who is released on parole for a violation of Section 288 or 288.5 whom the Department of Corrections and Rehabilitation determines poses a high risk to the public shall not be placed or reside, for the duration of his or her parole, within one-half mile of a public or private school including any or all of kindergarten and grades 1 to 12, inclusive.

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

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

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 3003 of the Penal Code proposed by both this bill and Assembly Bill 1408. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 3003 of the Penal Code, and (3) this bill is enacted after Assembly Bill 1408, in which case Section 1 of this bill shall not become operative.