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AB-1226 Corrections: Placement of incarcerated persons. (2023-2024)

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Assembly Bill No. 1226

CHAPTER 98

An act to repeal and add Section 5068 of the Penal Code, relating to corrections.

[Approved by Governor July 21, 2023. Filed with Secretary of State July 21, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1226, Haney. Corrections: Placement of incarcerated persons.

Existing law requires the Department of Corrections and Rehabilitation to conduct assessments and examinations of all inmates who are newly committed to a state prison that include investigation of all pertinent circumstances of the person's life, including, but not limited to, data regarding the inmate's history of substance abuse, medical and mental health, education, family background, criminal activity, and social functioning.

Existing law requires the Secretary of the Department of Corrections and Rehabilitation to assign a prisoner to the institution of the appropriate security level and gender population nearest the prisoner's home, unless other classification factors make such a placement unreasonable.

This bill, for an incarcerated person with a parent and child relationship with a child under 18 years of age, as specified, or who is a guardian or relative caregiver of a child, as defined, would require the secretary to place the person in the correctional institution or facility that is located nearest to the primary place of residence of the person's child, provided that the placement would be suitable and appropriate, would facilitate increased contact between the person and their child, and the incarcerated parent gives their consent to the placement. The bill would authorize the department to reevaluate an incarcerated person's placement to determine whether existing orders should be modified, including whether the person's child has moved to a place significantly nearer to an otherwise suitable and appropriate institution. The bill would allow an incarcerated person to request a review of their housing assignment when there is a change in the primary place of residence of the person's child upon which the person's housing assignment was based.

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

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

SECTION 1. Section 5068 of the Penal Code is repealed.

SEC. 2. Section 5068 is added to the Penal Code, to read:

5068. (a) For purposes of this section, the following terms have the following meanings:

(1) "Incarcerated person's home" means a place where the incarcerated person's spouse, parents, or children reside at the time of commitment or at the time of a review of an incarcerated person's classification or housing assignment.

(2) "Reasonable" includes consideration of the safety of the incarcerated person and the institution.

(3) "Reassign" means to transfer an incarcerated person's housing assignment from one institution to another.

(b) (1) The Secretary of the Department of Corrections and Rehabilitation shall evaluate a person who is newly committed to a state prison. The evaluation shall include the investigation of all pertinent circumstances of the person's life, including the existence of any strong community and family ties, the maintenance of which may aid in the person's rehabilitation, and the antecedents of the violation of law because of which the person has been committed to prison.

(2) An incarcerated person's placement may be reevaluated to determine whether existing orders and dispositions should be modified or continued in force, including, but not limited to, whether a child described in subparagraph (A) of paragraph (2) of subdivision (c) has moved to a place significantly nearer to an otherwise suitable and appropriate institution.

(c) (1) The secretary shall classify incarcerated persons based on the evaluations described in subdivision (b), and when reasonable, the secretary shall assign or reassign an incarcerated person to the institution of the appropriate security level and gender population nearest the incarcerated person's home, unless other classification factors make that placement unreasonable.

(2) (A) If the incarcerated person has a parent and child relationship with a child under 18 years of age, as described in Chapter 2 (commencing with Section 7610) of Part 3 of Division 12 of the Family Code, or is a guardian or relative caregiver as defined in Section 17550 of the Family Code, the secretary shall place the person in the correctional institution or facility that is located nearest to the primary place of residence of the person's child, provided that the placement is suitable and appropriate, would facilitate increased contact between the person and their child, and the incarcerated parent gives their consent to the placement.

(B) An incarcerated person may request a review of their housing assignment when there is a change in the primary place of residence of the person's child upon which the person's housing assignment was based.

(C) If an incarcerated person has more than one child under 18 years of age, the department shall make a separate determination for each individual child.

(d) When the diagnostic study of an incarcerated person committed to an indeterminate sentence pursuant to subdivision (b) of Section 1168 indicates the need for a psychiatric or psychological evaluation, the secretary shall cause a psychiatric or psychological report to be prepared for the Board of Parole Hearings prior to the release of the incarcerated person. The report shall be prepared by a psychiatrist or psychologist licensed to practice in this state.

(e) Before the release of an incarcerated person committed under subdivision (b) of Section 1168, the secretary shall provide the Board of Parole Hearings with a written evaluation of the incarcerated person.