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AB-2475 Parole. (2023-2024)

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Assembly Bill No. 2475

CHAPTER 963

An act to amend Section 2966 of the Penal Code, relating to parole.

[Approved by Governor September 29, 2024. Filed with Secretary of State September 29, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2475, Haney. Parole.

Existing law requires a prisoner who has a severe mental disorder to be treated by the State Department of State Hospitals as a condition of parole. Existing law specifies the criteria for this parole condition to apply, and allows a prisoner to request a hearing before the Board of Parole Hearings for the purpose of proving that the prisoner meets the criteria. Existing law allows a prisoner who disagrees with the determination of the Board of Parole Hearings to file a petition in court for a hearing on whether they met the criteria. Existing law provides that if the determination of the Board of Parole Hearings is reversed, the court is to stay the execution of the decision for 5 working days to allow for an orderly release of the prisoner.

Existing law requires that specified persons released from prison, after serving a prison term for a felony, be subject to postrelease community supervision provided by a county agency for a period not exceeding 3 years immediately following release.

This bill would instead provide that if the determination of the Board of Parole Hearings is reversed, the court shall stay the execution of the decision for up to 30 days to allow for an orderly release of the prisoner, as specified.

The bill would require that if the determination of the Board of Parole Hearings is reversed, the Department of Corrections and Rehabilitation, upon a determination that the individual is eligible for release pursuant to postrelease community supervision provisions, notify the probation department of the county of supervision of the pending release within 5 working days of the court order and work with the county of supervision to coordinate the orderly and safe release of the prisoner.

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

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

SECTION 1. Section 2966 of the Penal Code is amended to read:

2966. (a) A prisoner may request a hearing before the Board of Parole Hearings, and the board shall conduct a hearing if so requested, for the purpose of proving that the prisoner meets the criteria in Section 2962. At the hearing, the burden of proof shall be on the person or agency who certified the prisoner under subdivision (d) of Section 2962. If the prisoner or any person appearing on the prisoner's behalf at the hearing requests it, the board shall appoint two independent professionals as provided

for in Section 2978. The prisoner shall be informed at the hearing of the right to request a trial pursuant to subdivision (b). The Board of Parole Hearings shall provide a prisoner who requests trial a petition form and instructions for filing the petition.

(b) A prisoner who disagrees with the determination of the Board of Parole Hearings that the prisoner meets the criteria of Section 2962 may file in the superior court of the county in which the prisoner is incarcerated or is being treated a petition for a hearing on whether the prisoner, as of the date of the Board of Parole Hearings hearing, met the criteria of Section 2962. The court shall conduct a hearing on the petition within 60 calendar days after the petition is filed, unless either time is waived by the petitioner or the petitioner's counsel or good cause is shown. Evidence offered for the purpose of proving the prisoner's behavior or mental status subsequent to the Board of Parole Hearings hearing shall not be considered. The order of the Board of Parole Hearings shall be in effect until the completion of the court proceedings. The court shall advise the petitioner of the right to be represented by an attorney and of the right to a jury trial. The attorney for the petitioner shall be given a copy of the petition and any supporting documents. The hearing shall be a civil hearing. In order to reduce costs, the rules of criminal discovery, as well as civil discovery, shall be applicable. The standard of proof shall be beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney. The court may, upon stipulation of both parties, receive in evidence the affidavit or declaration of any psychiatrist, psychologist, or other professional person who was involved in the certification and hearing process, or any professional person involved in the evaluation or treatment of the petitioner during the certification process. The court may allow the affidavit or declaration to be read and the contents thereof considered in the rendering of a decision or verdict in any proceeding held pursuant to this subdivision, or subdivision (c), or subdivision (a) of Section 2972. If the court or jury reverses the determination of the Board of Parole Hearings, the court shall stay the execution of the decision for up to 30 days to allow for an orderly release of the prisoner. The court may require the parties to return to the court during those 30 days to ensure that the entities involved in the release of the prisoner have coordinated an exit plan for the prisoner. If the court or jury reverses the determination of the Board of Parole Hearings, the Department of Corrections and Rehabilitation, upon a determination that the individual is eligible for release pursuant to Section 3451, shall notify the probation department of the county of supervision of the pending release within five working days of the court order and work with the county of supervision to coordinate the orderly and safe release of the prisoner.

(c) If the Board of Parole Hearings continues a parolee's mental health treatment under Section 2962 when it continues the parolee's parole under Section 3001, the procedures of this section shall only be applicable for the purpose of determining if the parolee has a severe mental health disorder, whether the parolee's severe mental health disorder is not in remission or cannot be kept in remission without treatment, and whether by reason of the parolee's severe mental health disorder, the parolee represents a substantial danger of physical harm to others.