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THIRD READING

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Bill No: AB 3234  
Author: Ting (D)  
Amended: 8/24/20 in Assembly  
Vote: 21

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ASSEMBLY FLOOR: 43-26, 8/24/20 - See last page for vote

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**SUBJECT:** Public Safety

**SOURCE:** Author

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**DIGEST:** This bill creates a court-initiated misdemeanor diversion program and lowers the minimum age limitation for the Elderly Parole Program to inmates who are 50 years of age and who have served a minimum of 20 years.

**ANALYSIS:**

Existing law:

- 1) Permits pretrial and post-trial diversion programs. (Penal Code Section 1001.)
- 2) Establishes the elderly parole, allowing for the review of parole suitability for any inmate who is 60 years of age or older and has served a minimum of 25 years of continuous incarceration. Section 3055)

This bill:

- 1) Creates a court-initiated misdemeanor diversion program. A superior court judge would be authorized to divert a misdemeanor defendant over the objection of the prosecution. Unlike existing general misdemeanor diversion, this bill has no statutory requirements for the defendant to satisfy in order to be eligible nor would any misdemeanors be statutorily excluded. Whether or not to divert a misdemeanor defendant would be in the trial court's discretion.

- 2) Provides that the following misdemeanors cannot be diverted: any offense for which the defendant would be required to register as a sex offender; domestic violence; or, stalking.
- 3) Provides that a person may be eligible for parole at the age of 50 years if they have served a minimum of 20 years of continuous incarceration.

## Comments

According to the author:

AB3234 provides judges with the discretion to provide diversion to individuals charged with misdemeanors they deem appropriate for such a program. Diversion programs that are successfully completed allow a person to avoid the lifelong collateral consequences associated with a criminal record when they are seeking employment or housing. Diversion programs typically require individuals to fulfill strict requirements, including participating in a rehabilitation program. This proactive approach has shown to yield better recidivism rates than merely prosecuting and jailing an individual.

AB 3234 also changes the age for elderly parole eligibility from 60 to 50 and time served from 25 to 20 years. This bill only allows for the opportunity to go to the parole board—it is not automatic release. The bill excludes strikers and estimates from Board of Parole Hearings show that of the total prison population, fewer than 240 individuals would have the opportunity to have a hearing and based on average grant rates, fewer than 50 people would even likely be released. The current Covid-19 pandemic requires thoughtful and urgent measures to reduce the risk of harm inside the state's prisons. This provides a deliberative process with safeguards for consideration for release for this high risk population

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

**SUPPORT:** (Verified 8/29/20)

California Public Defenders Association  
Californians for Safety and Justice  
Ella Baker Center for Human Rights  
Initiate Justice  
Smart Justice California  
Uncommon Law

**OPPOSITION:** (Verified 8/29/20)

California District Attorneys Association  
California Police Chiefs Association  
Crime Victims United of California  
Judicial Council

ASSEMBLY FLOOR: 43-26, 8/24/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Bonta, Burke, Calderon, Carrillo, Chiu, Chu, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Kamlager, Levine, Limón, Low, McCarty, Medina, Mullin, Nazarian, O'Donnell, Quirk, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Mark Stone, Ting, Weber, Wood, Rendon

NOES: Bigelow, Boerner Horvath, Brough, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Diep, Flora, Fong, Gallagher, Kiley, Lackey, Maienschein, Mathis, Mayes, Muratsuchi, Patterson, Petrie-Norris, Ramos, Salas, Smith, Voepel

NO VOTE RECORDED: Chau, Eggman, Frazier, Gray, Irwin, Obernolte, Quirk-Silva, Rodriguez, Waldron, Wicks

Prepared by: Mary Kennedy / PUB. S. /  
8/31/20 0:29:06

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