

Date of Hearing: February 28, 2023

Counsel: Cheryl Anderson

**ASSEMBLY COMMITTEE ON PUBLIC SAFETY**

Reginald Byron Jones-Sawyer, Sr., Chair

AB 313 (Vince Fong) – As Amended February 23, 2023

**SUMMARY:** Expands notice of a violent offender’s release, escape, scheduled execution, or death to the immediate family members of the victim. Specifically, **this bill:**

- 1) Expands the requirement that a designated county agency supply a form to the victim, certain witnesses, or next of kin, on which to request notification from the California Department of Corrections and Rehabilitation (CDCR) of a violent offender’s release, escape, scheduled execution, or death, to include supplying a form to the victim’s immediate family members and advising them of their right to such notice.
- 2) Expands the requirement that CDCR or the Board of Parole Hearings (BPH) notify all victims, certain witnesses, or next of kin, upon request, of a violent offender’s scheduled release, as specified, or scheduled execution, as specified, to include notifying the victim’s immediate family members.
- 3) Defines “immediate family member” as the victim’s spouse, parent, grandparent, brother, sister, children, or grandchildren who are related by blood, marriage, or adoption.

**EXISTING LAW:**

- 1) Requires the county district attorney, probation department and victim-witness coordinator to confer and establish an annual policy to decide, for convictions involving a violent offense, as specified, which one of their agencies shall inform each witness involved in the conviction who was threatened by the defendant, and each victim or victim’s next of kin the right to request and receive a notice of the defendant’s scheduled release, as specified, or scheduled execution, as specified. (Pen. Code, § 679.03, subd. (a).)
- 2) Requires CDCR to supply a form to the designated agency in order to enable the victim, witness, or next of kin of the victim to request and receive notification from CDCR of the release, escape, scheduled execution, or death of a violent offender. (Pen. Code, § 679.03, subd. (b).)
- 3) Requires the designated agency to give the form to the victim, witness, or victim’s next of kin for completion, explain to that person their right to notice, and forward the completed form to CDCR. CDCR or BPH is responsible for notifying all victims, witnesses, or next of kin who request to be notified of a violent offender’s scheduled release, or scheduled execution. (Pen. Code, § 679.03, subd. (b).)
- 4) Requires BPH or CDCR to notify the sheriff, chief of police, or both, and the district attorney who has jurisdiction over the community in which the person was convicted, of a scheduled

release. (Pen. Code, § 3058.6, subd. (a).)

- 5) Requires BPH, CDCR, or a designated agency to send a notice to the victim, witness, or victim's next of kin who has requested notification that a person convicted of a violent felony is scheduled to be released. Notice of the community in which the person is scheduled to reside shall also be given if it is in the county of residence or within 100 miles of the actual residence of a witness, victim, or family member of a victim who has requested notification. (Pen. Code, § 3058.8.)
- 6) Makes the right to notice of scheduled release contingent on the requesting party keeping CDCR or BPH informed of their current contact information. (Pen. Code, 3058.8, subd. (b).)
- 7) Provides that in sending the notice of release, BPH or CDCR shall use the information provided in the completed form, unless it is no longer current. In that case, CDCR must make a reasonable attempt to contact the person and to notify them of the impending release. (Pen. Code, § 3058.8, subd. (c).)
- 8) Allows a victim's immediate family to be present at an execution. Provides that if they file a written request to be present, they have a right to be notified by the warden 30 days prior to the execution or as close to that date as possible. (Pen. Code, § 3605, subds. (a) & (b).)
- 9) Defines "immediate family" as those persons who are related by blood, adoption, or marriage, within the second degree of consanguinity or affinity. (Pen. Code, § 3605, subd. (b)(2).)
- 10) Requires CDCR to immediately notify a victim or their next of kin if the crime was homicide, and if notification was previously requested, of an incarcerated person under their jurisdiction's escape. If the person is recaptured, the department shall notify the victim or their next of kin within 30 days. (Pen. Code, § 11155, subd. (b).)
- 11) Provides that CDCR shall send the notice of escape to the last address provided by the requesting party. (Pen. Code, § 11155, subd. (c).)
- 12) Provides that if the contact information provided is no longer current, CDCR shall make a diligent, good faith effort to learn the whereabouts of the victim in order to comply with these notification requirements. (Pen. Code, § 11155, subd. (d).)
- 13) Provides that, notwithstanding any other law, if the victim or witness has requested additional distance in the placement of an incarcerated person on parole, and if BPH or CDCR finds that there is a need to protect the life, safety, or well-being of the victim or witness, the incarcerated person 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: murder or voluntary manslaughter, mayhem, rape, sodomy by force, oral copulation, lewd acts on a child under 14, any felony punishable by death or life imprisonment, stalking, felony with great bodily injury, and continuous sexual abuse of a child. (Pen. Code, § 3003, subd. (f).)
- 14) States that, notwithstanding any other law, a person 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, and if BPH or CDCR, or the supervising county agency finds that there is a need to protect the life, safety, or well-being of the victim. If a person who is released on postrelease community supervision cannot be placed in their county of last legal residence, the supervising county agency may transfer them to another county upon approval of the receiving county. (Pen. Code, § 3003, subd. (h).)

- 15) Addresses the victim's right to be present and comment at a parole eligibility hearing. As related to this right, defines "immediate family" to include the victim's spouse, parent, grandparent, brother, sister, and children or grandchildren who are related by blood, marriage, or adoption. (Pen. Code, §§ 3043 & 3043.3.)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, "Families of crime victims should not have their trauma resurface through contact with the same offender, when that encounter could have been avoided. Assembly Bill 313 will expand victim protection services to the family of victims impacted by a crime. The detrimental effects of a crime oftentimes extend beyond the victims and witnesses of a crime. Extra time and space to care for themselves will help victims and their families heal without the threat of a traumatic encounter with the offender. Through codifying Form 1707 protections for families of victims, those affected by a crime against a family member can access greater transparency within the CDCR system and provide certainty when perpetrators are released from prison."
- 2) **Background:** CDCR's Operations Manual provides that victims, witnesses, next-of-kin, or immediate family members who request notification in writing by letter or CDCR Form 1707 shall be notified of the incarcerated person's death, escape, scheduled release to parole, discharge, release from custody for any other reason, or transfer of custody to another agency. ([https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2022/03/CDCR-DOM\\_2022.pdf](https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2022/03/CDCR-DOM_2022.pdf)) For these purposes, immediate family member means "legal spouse; registered domestic partner, natural parents; adoptive parents, if the adoption occurred and a family relationship existed prior to the inmate's incarceration; step-parents or foster parents; grandparents; natural, step, or foster brothers or sisters; the inmate's natural and adoptive children; grandchildren; and legal stepchildren of the inmate. Aunts, uncles and cousins are not immediate family members unless a verified foster relationship exists." (*Ibid.*; Cal. Code Regs. Tit. 15, § 3000.) Victims and witnesses of specified offenses may also request that the incarcerated person not be allowed to live within 35 miles of their home address. (Pen. Code, § 3003.)

To enable persons to request and receive notification from CDCR of the release, escape, scheduled execution, or death of a violent offender, Penal Code section 679.03 requires CDCR to supply a form to designated county agencies (the county district attorney, probation department, or victim-witness coordinator depending on their annual policy and existing resources). Section 679.03, in turn, requires the designated agencies to give the form to the victim, witness, or next of kin of the victim for completion, explain to that person or persons the right to be notified, and forward the completed form to CDCR. CDCR or BPH is

responsible for notifying all victims, witnesses, or next of kin of victims who request to be notified of a violent offender's scheduled release, as specified, or scheduled execution, as specified. (Pen. Code, § 679.03.)

This bill would expand the existing statutory notice requirements of a violent offender's release, escape, scheduled execution, or death to include the immediate family members of the victim. The bill would define "immediate family member" as the victim's spouse, parent, grandparent, brother, sister, children, or grandchildren who are related by blood, marriage, or adoption. This appears consistent with CDCR's existing notification practice. (See also <https://www.cdcr.ca.gov/victim-services/application/>.) It would also require the designated county agencies to supply a form to immediate family members and advise them of their right to notification. This bill's language would not amend Penal Code section 3003 which limits who can request that an incarcerated person not be allowed to live within 35 miles of their home address to victims and witnesses.

3) **Argument in Support:** None

4) **Argument in Opposition:** According to the *California Attorneys for Criminal Justice*, "AB 313 violates the rights of both prisoners and victims, by providing not otherwise public information to individuals who have no cognizable interest in the case and without requiring any showing that the victim or the victim's next of kin are unable to represent the victim's interest in the case.

"Additionally, the large number of people to be notified, with little or no actual connection to the case, whose names and contact information may or may not be known to law enforcement, would be burdensome to district attorney's office victim services units, whose resources would be better spent providing support to victims of crime. It would also be burdensome to victims who would be expected to provide exhaustive, and private, information about their immediate and extended family members."

5) **Prior Legislation:** SB 852 (Harman), Chapter 364, Statutes of 2011, authorized a crime victim to request the option of being notified of an offender's custody status by electronic mail, if that method is available, and made numerous conforming changes.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

None

### **Opposition**

California Attorneys for Criminal Justice

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