

Date of Hearing: April 21, 2026

Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 2232 (Patterson) – As Introduced February 19, 2026

As Proposed to be Amended in Committee

SUMMARY: Requires the Board of Parole Hearings (BPH) to publish an annual report on the advance parole consideration hearing process. Specifically, **this bill**:

- 1) Requires Board of Parole Hearings, in coordination with the Department of Corrections and Rehabilitation, shall collect and publish annual data regarding requests to advance parole consideration hearing dates pursuant to subdivision (d) of Section 3041.5 and administrative review processes of those requests.
- 2) The board shall submit the report to the Legislature by March 1, 2027 and annually thereafter. The board shall make the report publicly available on its internet website no later than March 1, 2027 of each year following the submission of the report to the Legislature.
- 3) The report shall include, but not be limited to, all of the following:
 - a) Volume and outcomes, including:
 - i) Total number of requests to advance parole consideration hearing dates filed.
 - ii) Total number of requests to advance parole consideration hearing dates granted, denied, and pending.
 - iii) Percentage of requests to advance parole consideration hearing dates granted.
 - iv) Number of hearings advanced through administrative review by the board, as specified, versus number of hearings advanced through requests, as specified.
 - b) Timing and impact, including:
 - i) Average duration of an incarcerated person's denial period for advance of a parole consideration hearing date.
 - ii) Average time during an incarcerated person's denial period that a request to advance a parole consideration hearing date is granted, expressed in months or years into an incarcerated person's denial period.
 - iii) Frequency of repeat advancement requests.

- c) General criteria and factors relied upon in granting or denying advancement, including all of the following:
 - i) Evidence of rehabilitation.
 - ii) Institutional behavior.
 - iii) Nature of psychological evaluations.
 - iv) Nature and severity of the offense.
 - d) Rehabilitation metrics, including:
 - i) Types of rehabilitative programming considered, including cognitive behavioral interventions.
 - ii) Completion rates of programming recommended by the board.
 - iii) Correlation, if any, between program completion and advancement decisions.
 - iv) The amount of time the incarcerated person waited to be admitted into these programs.
 - e) Victim considerations, including:
 - i) Whether victim notification was provided.
 - ii) Whether victim input was received and considered.
 - iii) General categories of victim concerns raised.
 - iv) Measures taken to ensure compliance with victim rights pursuant to Section 28 of Article I of the California Constitution (Marsy's Law), including consideration of victim safety and consideration of emotional psychological impact.
 - f) Outcomes of hearings that are advanced, including:
 - i) Grant rates for advanced hearings versus regularly scheduled hearings.
 - ii) Time to release following advancement of the hearing.
 - iii) Any available recidivism or return-to-custody data.
- 4) For each request to advance a parole consideration hearing date pursuant to subdivision (d) of Section 3041.5, the board shall maintain a written summary of the decision, including the basis for approval or denial and the primary factors considered.
- 5) The summaries shall be made available to all of the following:

- a) The incarcerated person or their counsel.
 - b) The victim or next of kin, upon request.
 - c) The district attorney's office.
- 6) This section shall remain in effect until January 1, 2032, and is repealed as of that date.

EXISTING LAW:

- 1) Requires BPH to schedule the next hearing, after considering the views and interests of the victim, as follows:
 - a) Fifteen years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the inmate than 10 additional years.
 - b) Ten years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the inmate than seven additional years.
 - c) Three years, five years, or seven years after any hearing at which parole is denied, because the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety requires a more lengthy period of incarceration for the inmate, but does not require a more lengthy period of incarceration for the inmate than seven additional years. (Pen. Code, § 3041.5, subd. (b)(3)(A)-(C).)
- 2) Authorizes BPH, in its discretion, after considering the views and interests of the victim, to advance a parole hearing to an earlier date when a change in circumstances or new information establishes a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration. (Pen. Code, § 3041.5, subd. (b)(4).)
- 3) Authorizes an inmate to request an advance hearing date by submitting a written request to BPH, with notice, upon request, and a copy to the victim, setting forth the change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration of the inmate. (Pen. Code, § 3041.5, subd. (d)(1).)
- 4) Authorizes BPH, after considering the views and interests of the victim, to decide to grant or deny a request for an advance hearing date. (Pen. Code, § 3041.5, subd. (d)(2).)
- 5) Provides that BPH's decision is subject to review by a court or magistrate only for a manifest abuse of discretion by BPH. (Pen. Code, § 3041.5, subd. (d)(2).)
- 6) Authorizes BPH to summarily deny a request that does not comply with specific requirements or that does not set forth a change in circumstances or new information

sufficient to justify granting an advance hearing date. (Pen. Code, § 3041.5, subd. (d)(2).)

- 7) Provides that an incarcerated person may make only one written request for an advance hearing date every three years. (Pen. Code, § 3041.5, subd. (d)(3).)
- 8) Provides that, following either a summary denial of a request for an advance hearing, or the decision of BPH after a hearing to deny parole, the incarcerated person may not submit another request for a hearing until a three-year period of time has elapsed from the summary denial or decision of the board. (Pen. Code, § 3041.5, subd. (d)(3).)
- 9) Provides that at all hearings for the purpose of reviewing an inmate's parole suitability, or the setting, postponing, or rescinding of parole, with the exception of en banc review of tie votes, the following apply:
 - a) At least 10 days before any BPH hearing, the incarcerated person is permitted to review the file which will be examined by the board and the opportunity to enter a written response to any material contained in the file.
 - b) The incarcerated person shall be permitted to be present, to ask and answer questions, and to speak on his or her own behalf. Neither the incarcerated person nor their attorney is entitled to ask questions of any person appearing at the hearing, as specified.
 - c) Unless legal counsel is required by some other law, a person designated by the Department of Corrections and Rehabilitation (CDCR) shall be present to ensure that all facts relevant to the decision be presented, including, if necessary, contradictory assertions as to matters of fact that have not been resolved by departmental or other procedures.
 - d) The inmate and specified persons are permitted to request and receive a stenographic record of all proceedings.
 - e) If the hearing is for the purpose of postponing or rescinding parole, the inmate shall have specified rights.
 - f) BPH shall set a date to reconsider whether an inmate should be released on parole that ensures a meaningful consideration of whether the inmate is suitable for release on parole. (Pen. Code, § 3041.5, subd. (a).)
- 10) Requires BPH, within 10 days of granting parole, to send the incarcerated person a written statement setting forth the reasons for granting parole, the conditions of release, and the consequences of failure to meet those conditions. (Pen. Code, § 3041.5, subd. (b)(1).)
- 11) Requires BPH, within 20 days of denying parole, to send the incarcerated person a written statement setting forth the reasons for denying parole, and suggest activities in which to participate that will benefit the person while incarcerated. (Pen. Code, § 3041.5, subd. (b)(2).)
- 12) Requires BPH, within 10 days of any board action resulting in the rescinding of parole, to send the incarcerated person a written statement setting forth the reasons for that action, and

to schedule the inmate's next hearing. (Pen. Code, § 3041.5, subd. (b)(5).)

- 13) Requires BPH to conduct a parole hearing as a de novo hearing. Findings made and conclusions reached in a prior parole hearing shall be considered in but shall not be deemed to be binding upon subsequent parole hearings for an inmate, but shall be subject to reconsideration based upon changed facts and circumstances. (Pen. Code, § 3041.5, subd. (c).)
- 14) Requires BPH, when conducting a hearing, to admit the prior recorded or memorialized testimony or statement of a victim or witness, upon request of the victim or if the victim or witness has died or become unavailable. (Pen. Code, § 3041.5, subd. (c).)
- 15) Provides that at each hearing the board shall determine the appropriate action to be taken based on the criteria set forth in paragraph (1) of subdivision (b) of Section 3041. (Pen. Code, § 3041.5, subd. (c).)
- 16) Requires BPH, 11 months after a parole consideration hearing results in a denial period of three years, to initiate an administrative review to determine whether to advance the date of the inmate's next parole consideration hearing, as specified, unless the incarcerated person was determinately sentenced inmates and is within 24 months of being released as a result of their Earliest Possible Release Date. (Cal. Code Regs., tit. 15, § 2153.)
- 17) Requires BPH, within five business days of determining BPH has jurisdiction to review a petition for an advance hearing date, or within five business days of BPH initiating an ad hoc administrative review, to notify registered victims of the BPH's pending review on the merits and provide an opportunity to submit a written statement. (Cal. Code Regs., tit. 15, § 2155, subd. (a).)
- 18) Provides that a registered victim is any person who is registered as a victim with the BPH's Office of Victim and Survivor Rights and Services on the date BPH staff determined it has jurisdiction of a petition for advance hearing date, the date BPH staff determined none of the circumstances in section 2154(b) apply, or on the date BPH initiated an ad hoc administrative review under section 2152. (Cal. Code Regs., tit. 15, § 2155, subd. (c).)
- 19) Requires, within 15 business days of the conclusion of the notification process, a commissioner or deputy commissioner, as specified, as a hearing officer, to conduct a review on the merits and determine whether the date of the inmate's next parole consideration hearing should be advanced. (Cal. Code Regs., tit. 15, § 2156, subd. (a).)
- 20) Provides that, after reviewing and considering all relevant and reliable information and the specified factors, the hearing officer shall advance the date of the incarcerated person's next parole consideration hearing if the hearing officer determines there has been a change in circumstances or new information that establishes a reasonable likelihood that consideration of the public and the victim's safety does not require that the inmate remain incarcerated until the date of his or her next parole consideration hearing. (Cal. Code Regs., tit. 15, § 2156, subd. (e).)
- 21) Provides that, in the absence of the above a determination, the date of the inmate's next parole consideration hearing shall not be advanced. (Cal. Code Regs., tit. 15, § 2156,

subd.(e).)

- 22) Requires the hearing officer shall issue a written decision that includes a statement of reasons supporting the decision. (Cal. Code Regs., tit. 15, § 2156, subd. (f).)
- 23) Requires BPH, within five business days of issuing a decision, to send notice of the decision to any registered victim who received notice, as specified. (Cal. Code Regs., tit. 15, § 2156, subd. (e).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “Victims deserve stability and predictability in the parole process. Under current law, parole hearings can be repeatedly advanced after a denial, forcing victims and their families to relive traumatic events sooner than expected. AB 2232 reinforces the timelines approved by voters, prevents repeated attempts to circumvent parole denials, and strengthens confidence in the parole system for victims, families, and the public.”
- 2) **The Board of Parole Hearings:** The Board of Parole Hearings was created in 2005. Prior to 2005, the Board of Prison Terms handled the adult population eligible to receive parole. The Board of Prison Terms was charged with parole hearings and revocation hearings for adults. Based on the recommendations of a task force assembled by then Governor Schwarzenegger, the Board of Prison Terms was dissolved to form the Board of Parole Hearings charged with similar responsibilities and governed by the same statutory language. Among its many powers, the Board of Parole Hearings has the authority to determine parole suitability and set a date for parole release when an individual is found suitable for release. (Pen. Code, § 5075, et seq.)
- 3) **Effect of this Bill:** BPH is required to hold a hearing on a person’s suitability for parole one year before the person’s minimum eligible parole date to determine if the person should be released from prison. (Pen. Code, § 3041, subd. (a)(2).) Existing law requires BPH to grant parole unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of the current or past convicted offense or offenses, is such that consideration of public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).) BPH can consider all relevant, reliable information available. (15 Cal. Code Regs., tit. 15, § 2281, subd. (b).) Factors showing unsuitability include, among others, whether the person abused their victim during the offense or the offense was exceptionally cruel or callous; and, whether the person has an unstable social history, committed a sadistic sexual offense, demonstrates a lack of remorse, or has engaged in serious misconduct while incarcerated. (15 Cal. Code Regs., tit. 15, § 2281, subd. (c).) However, regardless of the length of time served, a person must be found unsuitable for and denied parole if BPH determines that the person poses an unreasonable risk of danger to society if released from prison. (Cal. Code Regs., tit. 15, § 2281, subd. (a).)

If BPH denies parole, then it must schedule the next parole hearing, after considering the views and interests of the victim, 15 years after the hearing at which parole was denied, unless BPH finds by clear and convincing evidence that the criteria relevant to the decision

denying parole are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the inmate than 10 additional years; 10 years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the inmate than seven additional years; or three years, five years, or seven years after any hearing at which parole is denied, because the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety requires a more lengthy period of incarceration for the inmate, but does not require a more lengthy period of incarceration for the inmate than seven additional years. (Pen. Code, § 3041.5, subd. (b)(3)(A)-(C).)

If a parole consideration hearing results in a denial period of three years, BPH must initiate an administrative review 11 months later to determine whether to advance the date of the inmate's next parole consideration hearing, as specified, unless the incarcerated person was determinately sentenced and is within 24 months of being released as a result of their Earliest Possible Release Date. (Cal. Code Regs., tit. 15, § 2153.)

Notwithstanding a denial of parole, BPH has the discretion, after considering the views and interests of the victim, to advance a parole hearing to an earlier date when a change in circumstances or new information establishes a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration. (Pen. Code, § 3041.5, subd. (b)(4).) Even if BPH does not exercise this discretion, an incarcerated person may request an advance hearing date by submitting a written request to BPH, with notice, upon request, and a copy to the victim, setting forth the change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration of the inmate. (Pen. Code, § 3041.5, subd. (d)(1).) After considering the views and interests of the victim, BPH decides whether to grant or deny a request for an advance hearing date, a decision that is subject to review by a court or magistrate only for a manifest abuse of discretion. (Pen. Code, § 3041.5, subd. (d)(2).) BPH may summarily deny a request that does not comply with specific requirements or that does not set forth a change in circumstances or new information sufficient to justify granting an advance hearing date. (Pen. Code, § 3041.5, subd. (d)(2).) An incarcerated person may make only one written request for an advance hearing date every three years. (Pen. Code, § 3041.5, subd. (d)(3).)

Provides that, to file a written petition to advance the date of the inmate's next parole consideration hearing, the incarcerated person or their attorney of record must send BPH a completed Petition to Advance Hearing Date Form or a written request that includes the following the incarcerated person's name; their CDCR number; the institution at which the incarcerated person is housed; a statement of the change in circumstances or new information since the date of the incarcerated person's most recent hearing resulting in a denial or stipulation of unsuitability; how the change in circumstances or new information establishes a reasonable likelihood that consideration of the public safety does not require that the inmate remain incarcerated until the date of his or her next parole consideration hearing; and the incarcerated person's signature and date of signature. (Cal. Code Regs., tit. 15, § 2150, subd. (b).) BPH, within 10 business days of receiving an advance hearing petition, must review the petition to determine whether the board has jurisdiction to advance the date of the inmate's next parole consideration hearing. (Cal. Code Regs., tit. 15, § 2151, subd. (a).) BPH has jurisdiction to advance the date of the incarcerated person's next parole consideration hearing

if all of the following are true: the incarcerated person's last parole consideration hearing resulted in a denial of parole or a stipulation of unsuitability, and the incarcerated person has not submitted a petition to advance a parole consideration hearing date that was reviewed on the merits within the past three years. (Cal. Code Regs., tit. 15, § 2151, subd. (b)(1) & (2).)

This bill would require BPH to publish an annual report on the advance parole consideration hearing process. The bill would require BPH to report, among other things, on the number of requests for advance parole consideration hearings and the of those requests, and whether the advance hearing process was initiated by BPH or by an incarcerated person's petition. It would also have to include information on the criteria BPH relied on when making a determination on whether to advance a parole consideration hearing, and what rehabilitation metrics were used to evaluate the incarcerated person's suitability for parole. Further, it would have to provide information related to victim notification and whether the victim submitted input on the suitability of the incarcerated person. The outcomes of the advanced parole considerations hearing must also be reported.

- 4) **Advanced Parole Consideration Hearings and the Victims' Bill of Rights Act of 2008: Marcy's Law:** Proposition 9, also known as the Victims' Bill of Rights Act of 2008: Marcy's Law, was passed by the voters on November 4, 2008. Prior to Marcy's Law, the parole board could defer a subsequent parole hearing following a denial of parole for one year unless it found that it was not reasonable to expect the incarcerated person to be suitable for parole within that time, in which case it could be extended up to five years if the person had been convicted of murder or up to two years for other offenses.¹ Marcy's Law, among other things, changed the length of the deferral period following a denial of parole. As the California Supreme Court explains:

As amended in 2008 by Marsy's Law, section 3041.5 establishes longer deferral periods following the denial of parole than did the statute in 1983. The deferral periods range from a default period of 15 years to a minimum of three years. More specifically, the next hearing is to occur in 15 years, "unless the board finds by clear and convincing evidence that the criteria relevant to the setting of parole release dates ... are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the prisoner than 10 additional years." (Pen. Code, § 3041.5, subd. (b)(3)(A).) If the Board makes such a finding, the next hearing shall be in 10 years unless the Board finds, again by clear and convincing evidence and considering the same criteria and considerations, that a period of more than seven years is not required. (Pen. Code, § 3041.5, subd. (b)(3)(B).) In that event, the next hearing shall be in three, five, or seven years. (Pen. Code, § 3041.5, subd. (b)(3)(C).) The Board is required to "consider[] the views and interests of the victim" before selecting the appropriate deferral period. (Pen. Code, § 3041.5, subd. (b)(3).) (*In re Vicks* (2013) 56 Cal.4th 274, 284.)

However, Marcy's Law did not just extend the deferral period, but also gave the parole board discretion to advance a parole suitability hearing prior to the end of the deferral period "when a change in circumstances or new information establishes a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration of the prisoner." (Pen. Code, § 3041.5, subd. (b)(4); *In re Vicks*, *supra*, at p.

¹ <https://www.cdcr.ca.gov/bph/parole-suitability-hearings-overview/advancing-an-inmates-next-parole-suitability-hearing-date/>

284.)

Further, Marcy's Law gave an incarcerated person the opportunity to request an advance parole suitability hearing "by submitting a written request to the board, with notice, upon request, and a copy to the victim which shall set forth the change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration of the inmate." (Pen. Code, § 3041.5, subd. (d)(1); *In re Vicks, supra*, at pp. 284-285.) The California Supreme Court adds:

The Board may summarily deny a petition to advance if the petition does not comply with these requirements, or if, in the judgment of the Board, the change in circumstances or new information is insufficient to justify the Board's exercising its discretion under subdivision (b)(4). (Pen. Code, § 3041.5, subd. (d)(2).) Section 3041.5 does not expressly address what other actions the Board may take in response to a written request, but if the petition sets forth a "change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration of the inmate," the Board has authority under subdivision (b)(4) to hold a parole suitability hearing at an earlier date than was set when parole was previously denied.

Section 3041.5 provides that "[a]n inmate may make only one written request [to advance a hearing] during each three-year period." (Pen. Code, § 3041.5, subd. (d)(3).) The three-year period is calculated from one of two start dates: "Following either [1] a summary denial of [an inmate's] request ... or [2] the decision of the board after a hearing described in subdivision (a) to not set a parole date, the inmate shall not be entitled to submit another request for a hearing pursuant to subdivision (a) until a three-year period of time has elapsed from the summary denial or decision of the board." (Pen. Code, § 3041.5, subd. (d)(3).) (*In re Vicks, supra*, at p. 285.)

As noted above, this bill would require BPH to report specified data related to the conduct and outcomes of advanced parole consideration hearings.

- 5) **Committee Amendments:** The bill in print eliminates BPH's authority to advance, and an incarcerated person's ability to request an advance of, a parole suitability hearing when, after considering the views and interests of the victim, there has been a change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration. The bill as proposed to be amended in committee would gut and amend this bill, instead requiring BPH to publish an annual report on the advance parole consideration hearing process. Among other things, this bill would require a report on the number of requests for advance parole consideration hearings and the of those requests, and whether the advance hearing process was initiated by BPH or by an incarcerated person's petition. It would also have to include information on the criteria BPH relied on when making a determination on whether to advance a parole consideration hearing, and what rehabilitation metrics were used to evaluate the incarcerated person's suitability for parole. Further, it would have to provide information related to victim notification and whether the victim submitted input on the suitability of the incarcerated person. The outcomes of the advanced parole considerations hearing must also be reported.

- 6) **Argument in Support:** According to the *Placer County District Attorney's Office*, the bill's sponsor, "Under current law, inmates may administratively advance their parole suitability hearings--even after the Board of Parole Hearings has conducted a full evidentiary hearing and issued a denial with a specified deferral period. The current system undermines the decisions of the Board Commissioners, disrupts the intended structure of parole review, and imposes unnecessary and repeated trauma on victims and their families. **Penal Code section 3041.5 (d) expressly conditions the Board's discretion to advance a parole hearing after consideration of the views and interests of the victim, yet this statutory safeguard is not consistently applied within the current administrative review process.**

"Parole hearings are not perfunctory proceedings. They are comprehensive, hours-long evaluations in which the Board carefully weighs the totality of the record, including the severity of the offense, the inmate's insight and accountability, institutional conduct, rehabilitation efforts, a comprehensive psychological and risk analysis, and the enduring impact on victims. These hearings also provide a critical opportunity for victims and their families to prepare statements, relive the facts of the crime, and advocate for their continued safety. When the Board denies parole and sets a deferral period, that decision often reflects a deliberate and informed judgment as to when the matter should be revisited.

"The current administrative advancement mechanism disregards that judgment in many cases. This not only diminishes the meaning of a parole board denial in certain cases, but it also erodes confidence in the system's consistency and clarity – for both the inmate and the victims. While we respect statutory opportunity for advancement, the current administrative review process has removed a standard of discretion that existed during Marsy law negotiations.

"Further, a parole denial is intended to require the individual to reflect and address the specific deficiencies identified by the Board during a defined deferral period. Permitting some inmates to move their hearings forward through administrative means bypasses the intended decision and weakens the rehabilitative goal behind denying the hearing. This legal loophole gives false hope to the inmate by permitting the individuals to bypass the Board's directive rather than comply with it.

"More importantly, it places an extraordinary and unnecessary burden on victims. Our office has witnessed firsthand the profound emotional toll this process exacts. In one case, the Vanderschoot family, whose daughter was murdered by her boyfriend Daniel Bezemer, endured a full parole hearing in 2023, resulting in a five-year denial. They began the difficult process of healing, relying on the certainty that they would not have to revisit the trauma for several years. Just two years later—days before Christmas—they would be required to prepare once again for a parole hearing. Although parole was denied once again because the inmate hadn't done the work requested in the 2023 parole hearing, the harm to the family had already been done.

"The current administrative standards do not promote rehabilitation. They do not serve justice. It is unjust to those involved in the parole hearings, including the parole board commissioners, the prosecution, and the victims and their families.

"AB 2232 addresses this issue by seeking to establish clearer standards and limitations on the administrative advancement of parole hearings following a denial. These changes ensure that

the Board's decision are honored, the parole process remains consistent and credible, and victims are not subjected to unnecessary and repeated trauma."

- 7) **Argument in Opposition:** According to *Uncommon Law*, "[T]he Administrative Review and Petition to Advance] procedures give the Board discretion to advance a parole candidate's subsequent hearing date if the Board determines, after considering the views and interests of the victim, that new information or changed circumstances demonstrate further incarceration may not be necessary for public safety. Eliminating these two procedures would likely violate state and federal constitutional prohibitions on *ex post facto* laws, and likely expose the government to legal challenges for due process violations. Moreover, AB 2232 would undermine rehabilitation and public safety by preventing the Board from making informed decisions and removing an important incentive for incarcerated people to sustain rehabilitative efforts after parole denials.

"Background on Marsy's Law and Changes to California's Parole Process

"In 2008, California voters approved Proposition 9, known as the California Victim's Bill of Rights Act of 2008 or "Marsy's Law," which amended the California Constitution to expand victims' rights and modified Penal Code sections 3041.5 and 3043 governing parole suitability hearings. Prior to Marsy's Law, the default parole denial period was one year, and the maximum parole denial length was five years for murder cases and two years for all other cases. Marsy's Law dramatically increased those denial periods, setting denial lengths of 15, 10, 7, 5, or 3 years, while also shifting the presumption towards the longest denial periods.

"Marsy's Law also established an important safeguard against the risk of prolonged incarceration: the Board's broad discretionary authority to advance hearing dates in light of new information or changed circumstances. Specifically, subdivision (b)(4) of Penal Code section 3041.5 authorized the parole board's discretion to advance a hearing when "a change in circumstances or new information establishes a reasonable likelihood that consideration of the public and victim's safety does not require additional incarceration," while subdivision (d)(1) of the same section allowed incarcerated people to submit written requests for consideration of an advanced hearing. The Board's Administrative Review and Petition to Advance processes were created to implement these statutory provisions created by Marsy's Law, and are further explained below.

"The Board conducts an Administrative Review of certain people who received a three year denial who have a low or moderate overall risk rating on their most recent comprehensive risk assessment to evaluate whether their next hearing date may be advanced to approximately 18 months from the date of the last parole denial.³ Cases are screened to automatically exclude individuals such as those with high risk scores, serious recent disciplinary violations, or recent crimes, before a deputy commissioner conducts a full review on the merits. Notably, the Board developed this approach to systematically identify people who were most likely to have received one-year denials pre-Marsy's Law to ensure these individuals were not unconstitutionally deprived of an earlier release date.⁴ After considering the views and interest of the victim(s) and their family members, the Board may advance the next parole hearing date if it finds a change in circumstances or new information showing that public safety does not require the person to serve more time in prison.⁵

"Petition to Advance. The Petition to Advance (PTA) process allows incarcerated to people

to submit a written request for an advanced hearing once every three years after an initial hearing.⁶ The petition must demonstrate changed circumstances or new information — such as evidence of significant new rehabilitation efforts — showing there is a reasonable likelihood that continued incarceration is no longer necessary for public safety. If the Board determines the standard has been met, it may modify the denial length from the last hearing to the next longest denial length; For example, a five-year denial would be modified to a three-year denial.

“Both the Administrative Review and Petition to Advance procedures simply allow the advancement of the next hearing date—they do not modify or diminish in any way the rigor of the parole suitability consideration at the advanced hearing. In fact, most hearings that are advanced through these processes do not result in a grant of parole.

“Eliminating The Administrative Review and Petition to Advance Processes Raises Serious Concerns of *Ex Post Facto* and Due Process Violations

“The increase in denial lengths created by Marsy’s Law raised an important constitutional question regarding whether extending parole denial periods for people whose crimes were committed before Marsy’s Law took effect constituted an *ex post facto* increase in punishment, prohibited under both the United States and California constitutions. Courts ultimately upheld the constitutionality of Marsy’s Law because of the existence of the Administrative Review and Petition to Advance processes. For example, the California Supreme Court in *In re Vicks* (2013) 56 Cal.4th 274 concluded that Marsy’s Law did not violate *ex post facto* principles because the possibility of advanced hearings under subdivisions (b)(4) and (d)(1) of Penal Code section 3041.5 neutralized the significant risk of prolonged incarceration for those whose crimes preceded Marsy’s Law.⁷

“In other words, the Administrative Review and Petition to Advance processes were central to finding that Marsy’s Law did not violate constitutional law. Subsequently, the Board formalized the Administrative Review and Petition to Advance processes through the rulemaking process, designing structured procedures that would alleviate constitutional concerns regarding *ex post facto* violations while upholding public safety. AB 2232 removes the very legal safeguards that prevented Marsy’s Law from being struck down for violating *ex post facto*

“In addition to rendering Marsy’s Law unconstitutional, AB 2232 may itself violate the prohibition on *ex post facto* legislation. By depriving the Board of any ability to advance parole hearings, AB 2232 will prolong incarceration for parole candidates who, under current law, could be found suitable for parole and released prior to their next hearing date. Under current law, a parole candidate who only requires one more year of rehabilitation following a parole denial can be released from prison after approximately 18 months. If AB 2232 passed, however, that exact same person would be forced to spend three years in prison, even if such lengthy incarceration were required by neither public safety nor the interests of the victims. Removing the Board’s discretion to advance hearings will likely result in protracted litigation regarding the constitutionality of this legislation.

“Finally, AB 2232 is arbitrary and capricious because it eliminates — overnight — advancement mechanisms that parole candidates have relied on for nearly two decades. Eliminating these advancement mechanisms would likely further expose the government to

potential legal challenges for due process violations.

“The Administrative Review and Petition to Advance Processes Promote Public Safety

“Beyond their constitutional importance, the current Administrative Review and Petition to Advance procedures are vital aspects of the parole consideration process that promote public safety and rehabilitation while incorporating victim input.

“Reviews are rigorous and require review of victim input statements, the incarcerated person’s institutional records, documents previously submitted to the Board, and previous parole hearing decisions. These procedures therefore retain the rigorous, discretionary nature of the parole board’s evaluation of public safety risk while also allowing consideration of meaningful changes in a person’s circumstances. In addition, both procedures involve victim input and notification: registered victims and victims’ family members who request notice are notified, given the opportunity to provide written input for consideration in the Board’s decision to advance the next parole hearing date, given notice of the Board’s decisions in these matters, and may request a copy of a Petition to Advance.⁸ Finally, these procedures reinforce the rehabilitative goals of California’s prison system.

“Research shows that people are more likely to sustain behavior change when they have clear incentives and opportunities to demonstrate progress. The possibility of earning an advanced parole hearing date within clearly structured procedures serves as a powerful incentive for parole candidates to engage in sustained rehabilitation and disciplinary-free behavior following a parole denial. Ultimately, these procedures help to prevent wasteful state spending on incarcerating people for longer lengths than necessary in between parole hearings.

“The Administrative Review and Petition to Advance Processes Promote Informed and Accurate Parole Decisions

“The hearing advancement mechanisms that AB 2232 seeks to eliminate allow the Board to incorporate new information that could not have been evaluated at the time of the original hearing, enabling more accurate and informed parole decisions that uphold public safety. For example, in 2024, a drug testing error in California prisons led to thousands of false positive drug test results for people in substance use treatment programs. Before the testing error was discovered, the Board relied on those drug tests to deny some people parole. After the error came to light, however, the Board used its hearing advancement authority to schedule new parole hearings for candidates who had been wrongfully denied parole based on the erroneous tests. Had the Board *not* been able to advance hearings, the only avenue for fixing the Board’s mistakes would have been for individual parole candidates to take the Board to court, causing unnecessary delays, costs, and expenditures of judicial resources.”

8) Related Legislation:

- a) AB 2342 (Hoover) would authorize the Governor, subject to a constitutional amendment approved by the voters, reverse or modify a BPH decision to grant parole to an incarcerated person convicted of a violent felony, as specified, if the inmate is serving an indeterminate term for an offense other than murder or the inmate is serving a determinate term and has not completed that term, but only if the board’s decision was

the result of Youth Offender Parole or Elderly Parole Program proceedings. AB 2342 is pending a hearing in this committee.

- b) AB 2570 (Lackey) would increase the age at which an incarcerated person becomes eligible for the Elderly Parole Program from 50- to 65-years-old. AB 2570 is pending a hearing in this committee.
- c) AB 2727 (Nguyen) would, among other things, provide that habitual sex offenders and one strike sex offenders, as specified, and other persons convicted of specified child sex crime are ineligible for the Elderly Parole Program until they are 65-year-old and have served 25 years of their sentence. AB 2727 is pending a hearing in this committee.
- d) SB 356 (Jones) would increase the minimum age limitation for the Elderly Parole Program to inmates who are 60 years of age and who have served a minimum of 25 years. SB 356 is pending hearing in this committee.
- e) SB 1278 (Niello) would exclude persons sentenced for a one-strike sex offense, as a habitual sex offender, or for specified sex offenses classified as a “violent” and/or “serious” felony. SB 1278 is pending referral in the Senate Rules Committee.

9) Prior Legislation:

- a) AB 47 (Nguyen), of the 2025-2026 Legislative Session, would have provided that a person sentenced for a one-strike sex offense or as a habitual sex offender is ineligible for elderly parole until the person is 60 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence. AB 47 was held in suspense in the Assembly Appropriations Committee.
- b) SB 286, of the 2025-2026 Legislative Session, would have exclude from Elderly Parole eligibility individuals convicted of murder or specified felony sex offenses, or sentenced as a habitual sex offender or under the One Strike Sex Offense statute. SB 286 was held in suspense in the Senate Appropriations Committee.
- c) AB 1177 (McKinnor), of the 2023-2024 Legislative Session, would have required BPH to send a copy of the stenographic transcript of an incarcerated person’s parole hearing to the incarcerated person once the transcript was created, and would have also required BPH to provide a copy of the audio recording of the hearing to the incarcerated person upon request. AB 1177 was held in suspense in the Assembly Appropriations Committee.
- d) AB 3234 (Ting), Chapter 334, Statutes of 2020, lowered 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.
- e) AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program, to be administered by the Board of Parole Hearings.
- f) SB 230 (Hancock), Chapter 470, Statutes of 2015, allowed incarcerated persons serving life sentences who are found suitable for parole to be paroled, as specified, and authorized the Governor to request a review of a BPH decision to grant or deny parole at

any time before the incarcerated person's scheduled release.

- g) SB 1341 (Hueso), of the 2015-2016 Legislative Session, would have limited BPH's discretion to advance a parole hearing to an earlier date by requiring any advanced date to be not less than two years after a hearing at which parole was denied. SB 1341 did not receive a hearing in the Senate Public Safety Committee.
- h) AB 487 (Gonzalez), of the 2015-2016 Legislative Session, among other things, required BPH to provide notice of an incarcerated person's request for an advanced parole suitability hearing to the district attorney and the victim, if the victim had previously requested notification of all BPH actions, no less than 30 days before BPH may grant the incarcerated person's request. AB 487 was vetoed.
- i) AB 1166 (Nielsen), Chapter 276, Statutes of 2009, provided that where there is a tie vote in a parole consideration hearing, the resulting en banc proceeding by the entire board shall only consider the record of the hearing that produced the tie vote, rather than hold a new hearing at which the inmate would have due process rights.

REGISTERED SUPPORT / OPPOSITION:

Support

Placer County District Attorney's Office (Sponsor)
 (EM)power + Resilience Project
 Arcadia Police Officers' Association
 Be the Solution (BTS) Commission
 Brea Police Association
 Burbank Police Officers' Association
 California Association of School Police Chiefs
 California Coalition of School Safety Professionals
 California Narcotic Officers' Association
 California Police Chiefs Association
 California Reserve Peace Officers Association
 California State Sheriffs' Association
 Claremont Police Officers Association
 Corona Police Officers Association
 Culver City Police Officers' Association
 Fullerton Police Officers' Association
 Los Angeles School Police Management Association
 Los Angeles School Police Officers Association
 Murrieta Police Officers' Association
 Newport Beach Police Association
 Palos Verdes Police Officers Association
 Placer County Deputy Sheriffs' Association
 Pomona Police Officers' Association
 Riverside County District Attorney
 Riverside Police Officers Association

Riverside Sheriffs' Association
11 Private Individuals

Opposition

A New Path
A New Way of Life Re-entry Project
All of US or None (HQ)
California Coalition for Women Prisoners
California for Safety and Justice
California Public Defenders Association
Californians United for a Responsible Budget
Care First California
Communities United for Restorative Youth Justice (CURYJ)
Community Works West
Courage California
Dee Hill Foundation INC
Dignity and Power Now
Ella Baker Center for Human Rights
Empowering Women Impacted by Incarceration
Felony Murder Elimination Project
Friends Committee on Legislation of California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Local 148 Los Angeles County Public Defender's Union
Prison Policy Initiative
Rubicon Programs
San Francisco Public Defender
San Quentin Skunkworks
Saving Lives in Custody California
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
The W. Haywood Burns Institute
Transitions Clinic Network
Uncommon Law
Universidad Popular
15 Private Individuals

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