Date of Hearing: April 7, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2727 (Nguyen) – As Amended March 9, 2026

As Proposed to be Amended in Committee

SUMMARY: Changes the threshold eligibility for the Elderly Parole Program for specified sex crimes. Specifically, **this bill**:

1) Provides that a person sentenced for a one-strike sex offense, as a habitual sex offender, for aggravated sexual assault of a child, or for specified sex acts on a child 10 years of age or younger, is ineligible for elderly parole until the person is 65 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence.

2) Extends to the Executive Officer of the Board of Parole Hearings (BPH) the authority to refer an individual, at least six months prior to that individual's scheduled release date, for an evaluation to determine if the person has a diagnosed mental health disorder so that the person is likely to engage in acts of sexual violence without appropriate treatment and custody.

3) Adds that the referral by the Secretary of the Department of Corrections and Rehabilitation (CDCR) or the Executive Officer of BPH for the evaluation may be made less than six months prior to the person's scheduled release date if the scheduled release date is less than four months after the decision to grant parole is made or if the incarcerated person will be scheduled for a parole hearing in the next six months.

4) Eliminates the limitation that a referral for a sexually violent predator (SVP) evaluation for an individual in CDCR custody be for an individual serving a determinate term.

5) Provides that the provisions of this bill granting the Executive Officer of BPH referral authority, and adding additional grounds for referring an incarcerated person for an evaluation less than six months prior to their scheduled release date, apply retroactively to any individual in CDCR's custody on or after the effective date of the bill, regardless of the date the individual's sentence was imposed or the date the underlying offense was committed.

6) Makes conforming changes.

EXISTING LAW:

1) Establishes the Elderly Parole Program, to be administered by BPH, for purposes of reviewing the parole suitability of any inmate who is 50 years of age or older and has served a minimum of 20 years of continuous incarceration on the inmate's current sentence, serving either a determinate or indeterminate sentence. (Pen. Code, § 3055, subd. (a).)

2) Requires BPH, when considering the release of an inmate, as specified, to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence. (Pen. Code, § 3055, subd. (c).)

3) States that an individual who is subject to this section shall meet with BPH pursuant to subdivision (a) of Section 3041. (Pen. Code, § 3055, subd. (e).)

4) Requires BPH, if an inmate is found suitable for parole under the Elderly Parole Program, to release the individual on parole, as specified. (Pen. Code, § 3055, subd. (e).)

5) Requires BPH, if parole is not granted, to set the time for a subsequent elderly parole hearing, as specified, and provides that no subsequent elderly parole hearing shall be necessary if the offender is released pursuant to other statutory provisions prior to the date of the subsequent hearing. (Pen. Code, § 3055, subd. (f).)

6) Provides the following exceptions to the Elderly Parole Program:

   a) Persons who had a prior conviction for a serious or violent felony;

   b) Persons who were sentenced to life in prison without the possibility of parole or death; or,

   c) Persons convicted of first-degree murder of a peace officer, as defined, who was killed while engaged in the performance of their duties, and the individual knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of their duties, or the victim was a peace officer or a former peace officer and was intentionally killed in retaliation for the performance of their official duties. (Pen. Code, § 3055, subd. (g) & (h).)

7) Provides that the provisions of the Elderly Parole Program do not alter the rights of victims at parole hearings. (Pen. Code, § 3055, subd. (i).)

8) Provides that one year before the inmate's minimum eligible parole date a panel of two or more commissioners or deputy commissioners shall again meet with the inmate and shall normally grant parole, as specified. (Pen. Code, § 3041, subd. (a)(2).)

9) Provides that, upon a grant of parole, the inmate shall be released subject to all applicable review periods, except an inmate shall not be released before reaching his or her minimum eligible parole date, as specified, unless the inmate is eligible for earlier release under their youth offender parole eligibility date or elderly parole eligibility date. (Pen. Code, § 3041, subd. (a)(4).)

10) Requires BPH to grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).)

11) Provides for, under the One Strike Sex Offense statute, a mandatory sentence of 15-years-to-life or 25-years-to-life if a person is convicted of one of the several specified felony sex

offenses under one or more circumstances, as provided. (Pen. Code, § 667.61, subds. (b)-(e).)

12) Provides for a sentence of 25-years-to-life for any person who has previously been convicted of one or more of the following offenses and who is convicted in the present proceeding of one of these offenses:

    a) Rape by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury, or threat to retaliate in the future;

    b) Rape of a spouse by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury, or threat to retaliate in the future;

    c) Rape or sexual penetration, in concert;

    d) Lewd or lascivious act on a child under 14, and lewd or lascivious act on a child under 14 by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury;

    e) Sexual penetration, by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury or sexual penetration of a person who is under 14 years of age and who is more than 10 years younger;

    f) Continuous sexual abuse of a child;

    g) Sodomy of a person who is under 14 years of age and more than 10 years younger, or in concert;

    h) Oral copulation of a person who is under 14 years of age and more than 10 years younger, or in concert;

    i) Kidnapping with intent to commit a lewd and lascivious act on a child under 14;

    j) Kidnapping to commit specified sex offenses;

    k) Kidnapping with intent to commit rape, oral copulation, sodomy, or other specified sex offense;

    l) Aggravated sexual assault of a child; or,

    m) An offense committed in another jurisdiction that includes all of the elements of one of the above offenses. (Pen. Code, § 667.71, subds. (a)-(c).)

13) Provides that any person who commits any of the following acts upon a child who is under 14 years of age and seven or more years younger than the person is guilty of aggravated sexual assault of a child and shall be sentenced to state prison for a term of 15 years to life:

    a) Rape, as specified;

b) Rape or sexual penetration, in concert, as specified;

c) Sodomy, as specified;

d) Oral copulation, as specified;

e) Sexual penetration, as specified. (Pen. Code, § 269, subds. (a) & (b).)

14) Provides that any person 18 years of age or older who engages in sexual intercourse or sodomy with a child who is 10 years of age or younger is guilty of a felony and shall be punished by imprisonment in the state prison for a term of 25 years to life. (Pen. Code, § 288.7, subd. (a).)

15) Provides that any person 18 years of age or older who engages in oral copulation or sexual penetration, as defined, with a child who is 10 years of age or younger is guilty of a felony and shall be punished by imprisonment in the state prison for a term of 15 years to life. (Pen. Code, § 288.7, subd. (b).)

16) Defines "sexually violent predator" as a person who has been convicted of a sexually violent offense against one or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior. (Welf. & Inst., § 6600, subd. (a).)

17) Provides that, if the victim of an underlying specified offense is a child under the age of 14, the offense shall constitute a "sexually violent offense." (Welf. & Inst., § 6600.1.)

18) When the Secretary of CDCR determines that an individual who is in custody under CDCR's jurisdiction, who is either serving a determinate prison sentence or whose parole has been revoked, and who is not in custody for the commission of a new offense committed while the individual was serving an indeterminate term in a state hospital as a sexually violent predator, may be a sexually violent predator, the secretary shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the inmate was received by the department with less than nine months of their sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the secretary may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date. (Welf. & Inst., § 6601, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "When someone preys on children, the impact is devastating and it stays with victims for life. Recent cases, including the David Funston case, have raised serious concerns about how California's elderly parole program is being applied, especially when it comes to individuals convicted of violent sexual offenses against children.

"That's why I introduced AB 2727. It takes a more targeted approach and draws a clear line

for the most serious sexual offenses, including cases involving multiple victims, while raising the bar for others before they can even be considered for release. It also strengthens the process by requiring referral for a sexually violent predator evaluation prior to release consideration. At the end of the day, this is about protecting our communities and making sure the most serious crimes are treated with the seriousness they deserve."

2) **Elderly Parole Program:** As the result of severe prison overcrowding, the Three-Judge Court ordered CDCR to implement several population reduction measures, including to "[f]inalize and implement a new parole process whereby inmates who are 60 years of age or older and have served a minimum of twenty-five years of their sentence will be referred to the Board of Parole Hearings to determine suitability for parole." (February 10, 2014 Order, 2:90-cv-0520 LKK DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown.*) In response to the order, BPH created the Elderly Parole Program and began holding elderly parole hearings on October 1, 2014. Inmates with determinate terms as well as those sentenced to life with the possibility of parole are eligible for the program.[1] Inmates who are sentenced to life without the possibility of parole, or who are sentenced to death, are not eligible for the program.[2]

   AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program. However, AB 1448 narrowed the eligibility criteria by excluding individuals who were sentenced pursuant to "Three Strikes" or who were convicted of first-degree murder of a peace officer from the Elderly Parole Program. (Pen. Code, § 3055, subds. (g) & (h).) AB 3234 (Ting), Chapter 334, Statutes of 2020, expanded the eligibility criteria for elderly parole. Specifically, AB 3234 lowered the minimum age at which an incarcerated individual is eligible for elderly parole from 60- to 50-years-old and the amount of time that must be served from 25 years to 20 years. Incarcerated individuals who meet the eligibility criteria of the court-ordered Elderly Parole Program but who are excluded from the statutory Elderly Parole Program are eligible for elderly parole consideration under the court-ordered program.[3]

3) **Effect of this Bill:** This bill provides that person sentenced for a one-strike sex offense, as a habitual sex offender, for aggravated sexual assault of a child, or for specified sex acts on a child 10 years of age or younger, is ineligible for elderly parole until the person is 65 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence.

   It is worth noting that some incarcerated individuals who are currently eligible for elderly parole were already in the parole suitability hearing cycle based on their original minimum eligible parole date (MEPD). The parole eligibility of these individuals is not based on their inclusion in the Elderly Parole Program as their sentences have always permitted an opportunity for parole. Similarly, there are incarcerated individuals who are eligible for parole but not yet in the parole suitability hearing cycle because they have not reached their MEPD. Irrespective of inclusion in the Elderly Parole Program, these individuals will have an opportunity for parole once they have reached their MEPD. This means that even if

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[1] https://www.cdcr.ca.gov/bph/elderly-parole-hearings-overview/
[2] *Ibid*.
[3] BPH, *Elderly Parole Fact Sheet* (Mar. 2022), p. 1 <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2022/03/Elderly-Parole-Fact-Sheet3_18-1.pdf> [as of Mar. 30, 2026].

certain categories of offenders are excluded from the Elderly Parole Program, the incarcerated individual will have parole hearings upon reaching their MEPD if the person otherwise has a sentence that permits parole (i.e., a sentence other than life without the possibility of parole or death).

Inclusion in the Elderly Parole Program may affect when an incarcerated individual has their initial parole hearing. However, inclusion in the Elderly Parole Program does not mean that an incarcerated individual will automatically be released from prison solely because the person meets the eligibility criteria for the program.

4) **General Overview of the Parole Process:** This bill would delay the time persons convicted of specified sex crimes are eligible for elderly parole. Notably, a person eligible for elderly parole does not mean they are suitable for parole, but rather that they are eligible for a hearing to determine their suitability.

BPH is required to hold a hearing on a person's suitability for parole one year before the person's MEPD 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 current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).)

The Elderly Parole Program requires BPH "to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence, when considering the release of an inmate." (Pen. Code, § 3055, subd. (c).) BPH can consider all relevant, reliable information available. (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. (Cal. Code Regs., tit. 15, § 2281, subd. (c).) Circumstances tending to show suitability include, among others, a stable social history, signs of remorse, age, understanding and future plans, and positive institutional behavior. (Cal. Code Regs., tit. 15, § 2281, subd. (d).) 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).)

Existing law also requires a person convicted of sexually violent offense and up for parole to undergo a comprehensive risk assessment for sexual offenders. (Pen. Code, § 3053.9.) The risk assessment is conducted by licensed psychologist employed by BPH who consider factors impacting the person's risk of violence. (*Ibid*.)

If found suitable for parole, a person released from custody is subject to supervision. Persons who are eligible for release under this bill are subject to parole supervision for at least 10 years, and could even receive lifetime parole under certain circumstances. (Pen. Code, §§ 3000, subd. (b)(3); 3001.01, subd. (d)(1); 3000.1, subd. (a)(2).) Existing law requires BPH, within 10 days following any decision granting parole, to send the incarcerated person a written statement setting forth the reason or reasons for granting parole, the conditions the person must meet in order to be released, and the consequences of failure to meet those

conditions. (Pen. Code, § 3041.5, subd. (b)(1).) Existing law provides that the parole agency can impose additional and appropriate conditions of supervision if the person violated a parole condition. (Pen. Code, § 3000.08, subd. (d).) Failure to comply with the conditions of parole could result in parole revocation and return to custody. (Pen. Code, § 3000.08, subd. (f)(1).)

5) **Sexually Violent Predator Act (SVPA):** Enacted in 1996, the SVPA authorizes an involuntary civil commitment of any person "who has been convicted of a sexually violent offense … and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior." (Welf. & Inst. Code, § 6601, subd. (a).) The SVPA was designed to accomplish the dual goals of protecting the public, by confining violent sexual predators likely to reoffend, and providing treatment to those offenders. "Those committed pursuant to the SVPA are to be treated not as criminals, but as sick persons. They are to receive treatment for their disorders and must be released when they no longer constitute a threat to society." (*People v. Superior Court (Karsai)* (2013) 213 Cal.App.4th 774, 783, citing Welf. & Inst. Code, § 6250.)

   Civil commitment is not a prison sentence. Once a person has been deemed no longer a threat to public safety, they must, as a matter of law, be released from custody. Involuntary commitment under the SVPA only begins after a person has completed their prison sentence. Originally, the SVP laws provided for an initial commitment of two years and then a review every two years thereafter. However, effective September 20, 2006, the law now provides for indeterminate commitments for persons found to be sexually violent predators. (Welf. & Inst. Code § 6604.)

   A SVP is a person convicted of specified sex offenses against at least one person and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior. (Welf. & Inst. Code, § 6600, subd. (a)(1).) Welfare and Institutions Code, section 6600 further defines a sexually violent predator as someone who suffered the following: aprior or current conviction that resulted in a determinate prison sentence for a sexually violent offense; conviction for a sexually violent offense that was committed prior to July 1, 1977, and that resulted in an indeterminate prison sentence; a prior conviction in another jurisdiction for an offense that includes all of the elements of a sexually violent offense; a conviction for an offense under a predecessor statute that includes all of the elements of a sexually violent offense; a prior conviction for which the inmate received a grant of probation for a sexually violent offense; a prior finding of not guilty by reason of insanity for a sexually violent offense; a conviction resulting in a finding that the person was a mentally disordered sex offender; a prior conviction for a sexually violent offense for which the person was committed to the Division of Juvenile Facilities, Department of Corrections and Rehabilitation, as specified; or, a prior conviction for a sexually violent offense that resulted in an indeterminate prison sentence. (Welf. & Inst. Code, § 6600, subd. (a)(1)(A-I).)

   A sexually violent offense means any of the following crimes when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person, or threatening to retaliate in the future against the victim or any other person, and that are committed on, before, or after the effective date of the SVPA and resulted in a conviction or a finding of not guilty by reason of insanity: (i) a felony violation of rape, (ii)

former provision of spousal rape, (iii) aiding abetting rape or sexual penetration, (iv) aggravated sexual assault of a child, (v) sodomy, (vi) forcible oral copulation, (vii) child molestation, (viii) continuous sexual abuse of a child, or (ix) sexual penetration, or (x) former provision on child molest, or any felony violation of (xi) kidnapping, (xii) kidnapping with intent to commit robbery or rape, or (xiii) assault with intent to commit rape, (xiv) former provision of spousal rape, (xv) aiding and abetting rape, (xvi) sodomy, (xvii) forcible oral copulation, (xviii) child molest, or (xix) sexual penetration. (Welf. & Inst. Code, § 6600, subd. (b).)

When the CDCR determines that an inmate "may be a sexually violent predator," the CDCR Secretary refers the inmate to the DSH for a thorough evaluation. (*Hubbart v. Superior Court* (1999) 19 Cal.4th 1138, 1145; Welf. & Inst., § 6601, subd. (b).) A "diagnosed mental disorder" for purposes of determining whether someone is a SVP means a "congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others." (Welf. & Inst. Code, § 6600, subd. (c).)

An evaluation "must be conducted by at least two practicing psychiatrists or psychologists in accordance with a standardized assessment protocol[.]" (Welf. & Inst. Code, § 6601, subd. (c)-(d).) If the two evaluators agree the inmate is likely to reoffend without treatment or custody due to their mental disorder, the Director of DSH must request a petition for commitment pursuant to the Welfare and Institutions Code section 6602 to the county in which the inmate was last convicted. (Welf. & Inst. Code, § 6601, subd. (d).) Thereafter, the county district attorney will file a petition for civil commitment. Due process requires any deprivation of liberty by the state requires notice and a meaningful opportunity to be heard.

Accordingly, a court then reviews the petition and determines whether there is probable cause to believe the inmate "is likely to engage in sexually violent predatory criminal behavior upon their release. If the court or jury determines that the person is a sexually violent predator, the person [is] committed for an indeterminate term" to a state mental hospital "for appropriate treatment and confinement." (Welf. & Inst. Code, § 6604.)

The burden then shifts to the "offender seeking his or her release from an SVPA commitment" to prove he or she is no longer a significant risk to society. (Ashley Felando (2012) *California's Sexually Violent Predator Act and the Dangerous Patient Exception*, 40 W. St. U. L.Rev. 73, 76; Note (2014) *Examining the Conditions of Confinement for Civil Detainees under California's Sexually Violent Predators Act*, 68 Hastings L.J. 1441, 1444-1446.)

If the Director of DSH determines that the inmate's diagnosed mental disorder has so changed that the inmate is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the Director will forward a report and recommendation for conditional release. If the court at the hearing determines that the SVP would not be a danger to others due to his or her diagnosed mental disorder while under supervision and treatment in the community, the court will order the person placed with an appropriate forensic conditional release program operated by the state for one year, a substantial portion of which is required to include outpatient supervision and treatment. (Welf. & Inst. Code, § 6608, subd. (f).)

After a judicial determination that a person would not be a danger to the health and safety of others (i.e., in that it is not likely that the person will engage in sexually violent criminal behavior due to the person's diagnosed mental disorder while under supervision and treatment in the community), they will be placed in their pre-incarceration county of domicile, unless the court finds that extraordinary circumstances require placement outside the county domicile. (Welf. & Inst. Code, § 6608.5, subd. (a); see Welf. & Inst. Code, § 6608.5, subd. (b).)

This bill would extend to the Executive Officer of the BPH the authority to refer an individual for an evaluation to determine if the person has a diagnosed mental health disorder so that the person is likely to engage in acts of sexual violence without appropriate treatment and custody. It also adds that the referral by the Secretary of CDCR or the Executive Officer of BPH for the evaluation may be made less than six months prior to the person's scheduled release date if the scheduled release date is less than four months after the decision to grant parole is made, or if the incarcerated person will be scheduled for a parole hearing in the next six months. It also eliminates the limitation that a referral for an SVP evaluation for individual in CDCR custody be for an individual serving a determinate term.

6) **Retroactivity:** Retroactivity means whether a change in sentencing or constitutional interpretation should be applied to cases where the penalty may already be imposed and appeals exhausted. As a general matter, Penal Code section 3 states "No part of it (meaning the codes) is retroactive, unless expressly so declared." If retroactivity is not specified, the law is not applied retroactively.

However, beginning in 1965, if a defendant's case is still pending at the time of the change and the law seeks to lessen a criminal penalty, they may be eligible for application of the new law. (*In re Estrada* (1965) 63 Cal.2d 740, 746 (hereinafter "*Estrada*").) *Estrada* and other cases since 1965 have held "new laws that reduce the punishment for a crime are presumptively to be applied to defendants whose judgments are not yet final." (*People v. Conley* (2016) 63 Cal.4th 646, 656, citing *Estrada*, 63 Cal.2d at 746).).

The California Supreme Court in *People v. Burgos* (2024) 16 Cal.5th 1 ruled that a defendant was not eligible for a bifurcated trial on a gang enhancement pursuant to Penal Code section 1109, as enacted in 2021 (Stats. 2021, ch. 699, § 5.) The Court correctly rejected *Estrada* as applied to the defendant's case because Penal Code section 1109 was not a criminal penalty reduction, but rather a "prophylactic rule of criminal procedure…." Accordingly, the general rule rejecting retroactivity unless otherwise specified by the statute controlled. In his concurrence, Justice Gorban asked the Legislature to consider the retroactive application of new laws, particularly where the statute is not a clear reduction of a criminal penalty, and to express their intent regarding whether any changes in that kind of legislation should be applied retroactively.

The proposed legislation explicitly provides that the provisions of this bill granting the Executive Officer of BPH referral authority, and adding additional grounds for referring an incarcerated person for an evaluation less than six months prior to their scheduled release date, apply retroactively to any individual in CDCR's custody on or after the effective date of the bill, regardless of the date the individual's sentence was imposed or the date the underlying offense was committed.

7) **Argument in Support**: According to the *Sacramento County District Attorney's Office*, "After victims are attacked, they are forced to undergo a series of invasive and at times offensive events to secure a conviction. There is a forensic medical exam, a forensic interview, direct and cross examination which can last hours, if not days. After a defendant is convicted, the presiding judge, who heard the facts and has full knowledge of the defendant's history, hands down the appropriate sentence. Only the worst sexual offenders receive a life sentence. At the time of sentencing victims are told they are safe, and their attackers will not be able to assault any other victim.

   "Elder parole changed that. It broke that promise. It has allowed for dangerous sexual violent predators to be released early. Many of these offenders released into the community, sometimes decades early, never complete programs that reduce their risk of reoffending. Frankly, that's because no such program exists.

   "AB 2727 would have prevented the recent Elder Parole of serial and violent child sex predators—David Funston and Gregory Vogelsang. That's because AB 2727 also closes the loophole that precluded them from being considered sexually violent predators (SVPs) which could have kept them in indefinitely.

   "I have heard the community's outrage and concern over the granting of Elder Parole for both of these child sex offenders. Hundreds of people voiced their objection to Vogelsang's early parole at an En Banc parole hearing – they showed up in person, called or emailed objecting to his early parole. I ask you to honor their voices by supporting this bill."

8) **Argument in Opposition**: According to the *Prison Policy Initiative*, "Our work has shown that elderly parole is a vital mechanism of release for people in prisons that poses minimal risk to public safety and should not be bound by offense restrictions, particularly as research has shown time and time again that people with sexually-based convictions have among the lowest risk of re-offense of anyone released from prison, as do those who are released from prison after the age of 55.

   "AB 2727 represents a dramatic and unwarranted rollback of a program that over a decade has effectively protected public safety while saving critical state resources. Despite its stated intent, AB 2727 does not advance public safety. Indeed, **there has never been a documented case of sexual re-offense by someone released through the Elderly Parole program**. Instead, AB 2727 promotes fear-based policymaking that is inconsistent with empirical criminal justice research, locking California into decades of wasteful prison spending without any tangible public safety benefit.

   "**The Elderly Parole Process is Already Rigorous, Especially for People with Sex Offenses**

   "Since its implementation, California's Elderly Parole program has proven to be extraordinarily effective at protecting public safety. The three-year recidivism rate for people released through California's elderly parole hearing process is remarkably low — among the lowest in the nation — at 1.8%, or just 0.6% when accounting for crimes against another person. This is even lower than the low recidivism rate for California's general parole hearing process, which is consistently about 2 to 3% — nearly 20 times lower than the roughly 40% recidivism rate for all people released from CDCR custody — or less than 1%

for violent re-offense. Furthermore, **there has never been a documented case of sexual re-offense by someone released through the Elderly Parole program**, further undermining the premise of this bill.

"These positive outcomes are consistent with a substantial body of research demonstrating that people age out of crime, with recidivism rates dropping sharply after age 50 and approaching *zero* by age 65. Notably, this pattern holds true across crime types, including for sexual offenses. In fact, contrary to common misconception, most people convicted of sexual offenses do not reoffend sexually, and the likelihood of sexual re-offense declines significantly with age.

"**Nonetheless, this is a conservative release program with very low grant rates**; between 2022 and 2024, only 16% of elderly parole hearings resulted in a parole grant, with just 9% of first-time elderly parole hearings leading to a grant. These numbers decline dramatically for people with sexual offenses. Even in elderly parole hearings held for people *already* assessed as a low risk by the parole board's Forensic Assessment Division, the parole board denies parole roughly 40% of the time. Rather than guaranteeing release, Elderly Parole affords candidates an opportunity to undergo a rigorous parole suitability evaluation by the parole board, including extensive evaluation of rehabilitation informed by forensic psychological assessments and actuarial risk tools.

"**People with Sex Offenses Who Are Paroled Are Subject to Highly Restrictive Supervision**

"On top of standard sex registry requirements, the victim-centered "Containment Model" California employs requires highly coordinated supervision among teams composed of a parole officer, sex offense treatment provider, and polygraph examiner; GPS ankle monitoring, mandatory participation in both individual and group sex offense-specific treatment tailored to risk level, continuous risk assessment administration, and regular polygraph testing. Furthermore, sex registrants in the highest risk tier are placed on lifetime intensive parole supervision. This intensive supervision framework already empowers law enforcement with ample tools for monitoring people paroled for sex offenses, rendering expanded civil commitment for this population unnecessary

"**Expanding the SVP Program for People with Indeterminate Sentences is Duplicative, Costly, and Will Not Improve Public Safety**

"AB 2727's expansion of the Sexually Violent Predator (SVP) program is unnecessary and counterproductive. The parole board already conducts thorough, structured assessments of risk before granting parole, rendering parallel SVP referrals duplicative. For people with sexual convictions, both the parole suitability and supervision processes additionally require the administration of research-validated, actuarial risk instruments specifically for assessing sexual re-offense risk, Including the Static-99R and the STABLE 2007. It would waste critical state resources to also conduct SVP proceedings duplicating a public safety inquiry the parole board has already completed.

"Furthermore, applying SVP proceedings to individuals already deemed suitable for parole invites the use of civil commitment as a back-end mechanism to override release decisions, particularly in cases that attract public scrutiny. AB 2727 also expands one of the most

inefficient and costly public safety systems in the state, as SVP proceedings are notoriously resource-intensive, often involving years of litigation, multiple expert evaluations, and extended detention, placing substantial strain on courts, prosecutors, public defenders, and the Department of State Hospitals. The costs are unjustifiable without any demonstrated public safety benefit, and divert limited resources from more effective strategies.

"**AB 2727 Imposes Excessive Fiscal and Human Costs California Cannot Bear**

"At the same time, AB 2727 would impose major fiscal costs on the state by keeping aging people incarcerated far beyond the point of any meaningful public safety benefit. Older incarcerated people are the most expensive to imprison because of age-related medical needs. Delaying or eliminating parole eligibility for this population will increase correctional and healthcare spending while producing no public safety return. On top of the yearly per capita incarceration cost of $138,000, average annual healthcare costs for an individual who is 80 or older is $240,000, climbing to upwards of $450,000 for certain individuals. In other words, this bill will cost billions in taxpayer dollars over the next decade.

"The bill also raises serious humanitarian and legal concerns. In practice, delaying Elderly Parole eligibility until age 75 for some people will function as a death-in-prison sentence for individuals who were not sentenced to die in prison, especially given the reduced life span of incarcerated people. The creation of the Elderly Parole program was to address a constitutional overcrowding crisis in California's state prisons. Release of elderly people was the safest and most fiscally sound option to reduce the prison population. AB 2727 threatens to undo that progress and open the door to more litigation. The court order that initially created the Elderly Parole program is still in effect, and this bill contradicts its requirements. AB 2727 creates legal exposure for California, imposing even further fiscal and human costs that the state is in no position to bear."

9) **Related Legislation**:

a) AB 2232 (Patterson) would eliminate the 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 a been a change in circumstances or new information that establishes a reasonable likelihood that consideration of public safety does not require the additional period of incarceration of the individual. AB 2232 is pending a hearing in this committee.

b) AB 2342 (Hoover) would authorize the Governor, subject to a constitutional amendment approved by the voters, to 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.

c) 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.

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.

10) **Prior Legislation**:

a) AB 47 (Nguyen) 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 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) SB 445 (Jones), of the 2021-2022 Legislative Session, would have excluded "One Strike" sex offenses from the Elderly Parole Program. SB 445 failed passage in the Senate Public Safety 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) SB 411 (Jones), of the 2019-2020 Legislative Session, was nearly identical to SB 445 above. SB 411 did not receive a hearing in the Senate Public Safety Committee.

f) AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program, to be administered by the Board of Parole Hearings.

g) SB 224 (Liu), of the 2015-2016 Legislative Session, was substantially similar to AB 1448 above. SB 224 was ordered to the Inactive File on the Senate Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
California Police Chiefs Association
California State Sheriffs' Association
Chief Probation Officers' of California (CPOC)
County of Orange, Through its Office of the District Attorney/public Administrator
Peace Officers Research Association of California (PORAC)

Riverside County District Attorney
Sacramento County District Attorney

Opposition

A New Path
ACLU California Action
Alliance for Constitutional Sex Offense Laws
Bend the Arc: Jewish Action, California
California Coalition for Women Prisoners
California Coalition for Women's Prisoners
California Public Defenders Association
Californians United for a Responsible Budget
Care First California
Courage California
Cure California
Dignity and Power Now
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Friends Committee on Legislation of California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Prison Law Office
Prison Policy Initiative
Rubicon Programs
San Quentin Skunkworks
Saving Lives in Custody California
Smart Justice California, a Project of Beyond Impact
The W. Haywood Burns Institute
Uncommon Law
Universidad Popular
4 Private Individuals

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