

Date of Hearing: April 29, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

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

Policy Committee: Public Safety

Vote: 8 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

SUMMARY:

This bill delays elderly parole eligibility for persons sentenced for specified sex offenses and expands the authority and timing of referrals for sexually violent predator (SVP) evaluation.

Specifically, this bill:

- 1) Provides that persons sentenced under the one-strike sex offense statute, 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 are ineligible for elderly parole until age 65 and after serving a minimum of 25 years of continuous incarceration.
- 2) Extends to the Executive Officer of the Board of Parole Hearings (BPH) the authority, currently held only by the Secretary of the Department of Corrections and Rehabilitation (CDCR), to refer an individual for an SVP evaluation.
- 3) Eliminates the existing limitation that SVP referrals be made only for individuals serving determinate terms, and adds new timing triggers allowing referrals less than six months prior to scheduled release.
- 4) Applies the SVP referral changes retroactively to any individual in CDCR custody on or after the effective date of the bill.

FISCAL EFFECT:

- 1) Ongoing General Fund costs to CDCR for extended incarceration of the affected population. Under existing law, a person sentenced for one of the specified sex offenses is eligible for elderly parole consideration at age 50 after 20 years served; under the bill, eligibility is delayed to age 65 after 25 years served. CDCR confirms the bill would result in longer incarceration periods for certain individuals currently in custody and a corresponding increase in the state prison population. At CDCR's current average per capita incarceration cost (approximately \$133,000 annually), each additional year of incarceration for an affected individual represents a cost of that magnitude; aggregate cost will depend on the size of the affected population and the extent to which current-law elderly parole grants would otherwise have resulted in release. CDCR notes that some affected individuals may remain eligible for earlier parole consideration through youth offender parole or their minimum eligible parole date, which partially offsets the delayed-eligibility effect.

- 2) Unknown, significant ongoing California Correctional Health Care Services (CCHCS) costs (General Fund) for geriatric medical care for the affected population. Incarcerated individuals over age 55 incur substantially higher healthcare costs than the general CDCR population due to age-related chronic conditions, long-term care needs, and end-of-life care.
- 3) Ongoing CDCR costs of low millions of dollars annually for expanded SVP screening and referral workload (General Fund). The bill's elimination of the determinate-term limitation on SVP referrals would require CDCR to conduct SVP screenings and referrals for indeterminately sentenced persons with qualifying offenses in advance of parole hearings. CDCR anticipates this represents a significant increase in ongoing screening workload.
- 4) The Department of State Hospitals (DSH) estimates \$4.13 million ongoing costs (General Fund) for expanded SVP evaluations. Eliminating the determinate-term limitation on SVP referrals expands the universe of inmates potentially subject to evaluation to include indeterminate-term inmates up for parole, and the new referral authority in BPH adds an additional referral pathway. Assuming BPH will refer these incarcerated persons to DSH for SVP evaluation before granting parole at the same rate they do for incarcerated persons who have already been granted parole, DSH estimates it would need to evaluate approximately 250 additional individuals referred each year. To do so, DSH would require ten SVP evaluators, one senior psychologist supervisor, and two analyst positions. Further, if the two initial evaluators disagree on whether the individual meets SVP criteria, two independent evaluators must complete another evaluation. Based on the current 10 % rate of difference of opinions, DSH would need to fund 50 additional independent evaluations (25 cases of differing opinion, requiring two additional evaluators per case).
- 5) DSH estimates \$10.23 million to \$20.46 million ongoing costs (General Fund) to treat additional SVP patients. If DSH assumes 10% to 20% of the anticipated 250 additional SVP evaluations result in positive SVP determinations, DSH SVP commitments would increase by 25 to 50 patients annually. Since SVP patients' length of stay is about 12 years, this would significantly impact DSH bed space. As of March 2026, DSH had a total population of 954 SVP patients. Based on FY 2024-25 expenditures, the average cost of inpatient treatment per day at DSH is \$1,121. All available units at DSH-Coalinga are activated and serving SVP patients, incarcerated persons from CDCR, and Offender with Mental Health Disorder (OMD) patients. Depending upon the actual number of SVP patients referred to DSH as a result of this bill, DSH may need to relocate OMD patients to other DSH facilities, which may impact overall bed availability in the DSH system for other patient types. To the extent DSH will need to contract for additional bed capacity to meet these needs, there are additional unknown costs.
- 6) Unknown costs to trial courts (Trial Court Trust Fund), county district attorneys, and county public defenders for SVP commitment proceedings generated by the expanded referral population. SVP proceedings are resource-intensive, often involving years of litigation, multiple expert evaluations, and probable cause hearings. These county costs are potentially reimbursable by the state, subject to a determination by the Commission on State Mandates. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26.

The Legislative Analyst's Office recently warned of General Fund structural deficits of around \$35 billion per year beginning in the 2027-28 fiscal year.

COMMENTS:

- 1) **Purpose.** According to the author, recent cases — including the David Funston case — have raised concerns about how the Elderly Parole Program is being applied to individuals convicted of violent sexual offenses against children. The author contends that this bill draws a clear line for the most serious sex offenses by raising the age and time-served thresholds for elderly parole eligibility and by strengthening the SVP referral process to ensure evaluation occurs before release in appropriate cases.
- 2) **Background.** The Elderly Parole Program was established in response to a 2014 order of the three-judge federal court overseeing California's prison overcrowding litigation (*Coleman v. Brown / Plata v. Brown*). BPH began conducting elderly parole hearings on October 1, 2014. AB 1448 (Weber), Chapter 676, Statutes of 2017 codified the program in statute. AB 3234 (Ting), Chapter 334, Statutes of 2020 lowered the minimum age from 60 to 50 and reduced the time-served requirement from 25 years to 20 years.

Eligibility for elderly parole is not equivalent to release. The Board of Parole Hearings (BPH) holds a suitability hearing and may grant parole only after considering the full range of suitability factors under title 15 of the California Code of Regulations, including the gravity of the offense, institutional behavior, remorse, rehabilitation, and risk of future violence. For individuals convicted of sex offenses, BPH is also required under Penal Code section 3053.9 to obtain a comprehensive risk assessment conducted by a licensed psychologist using actuarial instruments. Between 2022 and 2024, approximately 16% of elderly parole hearings resulted in a grant of parole, with grant rates declining substantially for individuals with sex offense convictions. Individuals excluded from the statutory Elderly Parole Program may remain eligible for elderly parole consideration under the court-ordered program, which operates under the three-judge court's 2014 order and uses a separate age-60 / 25-year-served threshold.

Sexually Violent Predator Evaluation. Under the Sexually Violent Predator Act (Welfare and Institutions Code section 6600 *et seq.*), CDCR may refer an individual for evaluation by the Department of State Hospitals (DSH) if CDCR determines the person may be an SVP. An SVP is defined as a person convicted of a sexually violent offense who has a diagnosed mental disorder that makes the person likely to engage in sexually violent criminal behavior. Evaluation is conducted by two designated psychiatrists or psychologists; if both concur, the Director of DSH may request a petition for commitment in the county of last conviction. If found to be an SVP, the person is committed to DSH for an indeterminate term.

This bill expands the SVP referral framework in three ways. First, it adds the Executive Officer of BPH as a referring authority alongside the Secretary of CDCR. Second, it eliminates the existing limitation that SVP referrals concern only individuals serving determinate terms, allowing referrals for indeterminate-term inmates (for example, lifers up for parole). Third, it adds new timing triggers that allow referrals less than six months prior to scheduled release where the release date is less than four months after the grant-of-parole decision or the person is scheduled for a parole hearing in the next six months.

Retroactivity. The bill provides that the SVP referral changes apply retroactively to any individual in CDCR custody on or after the effective date, regardless of the date of sentence or offense. This ensures the expanded referral authority reaches the current inmate population immediately upon enactment.

- 3) **Support and Opposition.** The bill is supported by law enforcement, probation officers, and district attorneys. Supporters argue that recent elderly parole grants for serial and violent child sex offenders — specifically citing the David Funston and Gregory Vogelsang cases — have broken the promise made to victims at sentencing that the most serious offenders would remain incarcerated, and that the bill targets the narrow population of the most serious sex offenders while strengthening SVP evaluation to protect public safety. The bill is opposed by a broad coalition of civil rights, criminal justice reform, and defense organizations. Opponents argue that the Elderly Parole Program has produced very low recidivism rates — with no documented case of sexual re-offense by an elderly parolee — that people age out of crime including sexual offenses, that the existing parole suitability process and SVP framework are already rigorous and the bill’s expansions are duplicative, and that delaying parole eligibility for aging individuals concentrates state incarceration and healthcare spending at the most expensive end of the age distribution without a corresponding public safety benefit.

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