

CONCURRENCE IN SENATE AMENDMENTS

AB 2727 (Nguyen)

As Amended August 28, 2026

Majority vote

SUMMARY

Changes the threshold eligibility for the Elderly Parole Program for specified sex crimes and requires, among other things, Board of Parole Hearings (BPH) to consider the results of a sexual dangerousness screening to determine if a person sentenced to an indeterminate term for a sexually violent offense is likely to be a sexually violent predator before determining if an individual is suitable for parole.

Senate Amendments

- 1) Requires the BPH, before meeting to review or consider the parole suitability of an incarcerated person sentenced to an indeterminate sentence for a sexually violent offense, to review a sexual dangerousness screening to determine if a person is likely to be a sexually violent predator. The screening shall be conducted by a licensed psychologist.
- 2) Provide that individuals may be referred to the State Department of State Hospitals (DSH) after the initial screening, under certain circumstances, including, but not limited to, any of the following:
 - a) The evaluator opinions that the individual has either a complex sexual violence risk or an equivocal predatory element to their sexual violence risk.
 - b) The individual has complex sexually violent predator relevant diagnoses linked to criminal sexual offending.
 - c) The person has received sex offender-specific treatment or interventions, and in the professional opinion of the evaluator performing the sexual dangerousness screening, it is unclear if the screening adequately addresses the individual's risk factors.
 - d) Other complex cases as requested by the BPH and approved by the Director of DSH or a designee.
- 3) Requires BPH to consider the results of the sexual dangerousness screening or screenings in determining if an individual is suitable for parole.
- 4) Provide that, if BPH grants parole to an individual whose sexual dangerousness screening indicates they may qualify as a sexually violent predator, they shall immediately be referred to DSH for a sexually violent predator evaluation, as specified.
- 5) Provide that the sexual dangerousness screening shall be jointly created by BPH and DSH. The screening shall be a review that considers the incarcerated person's sexual dangerousness, informed by the Sexually Violent Predators Act, as specified.
- 6) Provide that the screening shall include, but is not limited to, both of the following factors:

- a) The victim demographics and selection, and the nature of the violence perpetrated against the victim or victims, and persistence of offending; and,
 - b) Evidence of sexual deviance, as demonstrated by objective indicators.
- 7) Provide that the sexual dangerousness screening shall be reviewed at least every three years by BPH and the DSH, and updated as appropriate to reflect current research on sexually violent predators and risk assessments for people convicted of sex offenses.
 - 8) Provide that, effective January 1, 2027, the Department of Corrections and Rehabilitation (CDCR) shall recalculate Elderly Parole Eligible Dates for people 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; and, provide that, effective January 1, 2027, BPH shall cancel parole hearings for these people that were previously scheduled based solely on an Elderly Parole Eligible Date calculated using 50 years of age and 20 years of continuous incarceration.
 - 9) Increase the annual training requirement for commissioners and deputy commissioners from 40 to 48 hours.
 - 10) Requires all commissioners and deputy commissioners who conduct hearings, as specified, to undergo training on sex offender behaviors, risks, and treatment considerations, to be provided by DSH.
 - 11) Provide that, except as specified, when an incarcerated person whose sexual dangerousness screening indicates they may qualify as a sexually violent predator is granted parole, the Secretary of the CDCR or the executive officer of BPH shall immediately refer the person for evaluation, as described.
 - 12) Provide a referral for evaluation of an incarcerated person whose sexual dangerousness screening indicates they may qualify as a sexually violent predator is granted parole may be waived by the mutual agreement of DSH and CDCR, if the incarcerated person is permanently medically incapacitated, as specified.
 - 13) Provide that, upon a showing of good cause, BPH may order that a person, referred to the DSH following a grant of parole but for whom a sexual dangerousness screening indicates they may qualify as a sexually violate predator, remain in custody for no more than 90 days beyond the person's scheduled release date for full evaluation, as specified.
 - 14) Provide that "good cause" means circumstances where there are less than 180 days prior to the person's scheduled release date for the full evaluation, as specified.
 - 15) Makes technical and conforming changes.

COMMENTS

As Passed by the Assembly, this bill: Changed the threshold eligibility for the Elderly Parole Program for specified sex crimes.

Major Provisions

- 1) Provided 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) Extended 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) Added 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) Eliminated 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) Provided 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) Made conforming changes.

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."

Arguments 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 release 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."

Arguments 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."

FISCAL COMMENTS

According to the Senate Appropriations Committee, "Major annual costs in the millions of dollars to the California Department of Corrections and Rehabilitation (CDCR) for extended incarceration of the affected population. A person sentenced for one of the specified sex offenses is eligible for elderly parole consideration at age 50 after 20 years served. This bill delays eligibility to age 65 after 25 years served. At CDCR's average per capita incarceration cost of approximately \$138,000 annually, each additional year of incarceration for an affected individual represents a cost of that magnitude. Aggregate costs 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.

"Annual costs to the California Correctional Health Care Services 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.

"Annual costs in the low millions of dollars for expanded SVP screening and referral workload. 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.

"Projected \$4.13 million annually to the Department of State Hospitals (DSH) 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 the Board of Parole Hearings (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 percent 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).

"Projected \$10.23 million to \$20.46 million annually 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 fiscal year (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. (General Fund)

"Unknown costs to trial courts, 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 FY 2026-27 Budget appropriated \$70 million to backfill revenue reductions (Trial Court Trust Fund, General Fund)."

VOTES:

ASM PUBLIC SAFETY: 8-0-1

YES: Schultz, Alanis, Mark González, Haney, Harabedian, Lackey, Nguyen, Ramos

ABS, ABST OR NV: Sharp-Collins

ASM APPROPRIATIONS: 13-0-2

YES: Wicks, Hoover, Aguiar-Curry, Calderon, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Solache, Ta, Tangipa

ABS, ABST OR NV: Caloza, Sharp-Collins

ASSEMBLY FLOOR: 70-0-10

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Ellis, Flora, Fong, Gabriel, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Wicks, Wilson, Zbur, Rivas

ABS, ABST OR NV: Bryan, Caloza, Elhawary, Garcia, Jackson, McKinnor, Quirk-Silva, Celeste Rodriguez, Sharp-Collins, Ward

UPDATED

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CONSULTANT: Andrew Ironside / PUB. S. / (916) 319-3744

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