
THIRD READING

Bill No: SB 1446
Author: Committee on Public Safety
Amended: 4/27/26
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 4/21/26
AYES: Arreguín, Seyarto, Caballero, Cortese, Pérez, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/14/26
AYES: Cervantes, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

SUBJECT: Incarcerated persons: release and parole

SOURCE: Author

DIGEST: This bill 1) requires a Board of Parole Hearing (BPH) en banc decision and vote to be a public record; 2) requires the board, when reviewing a parole decision referred by the Governor or board's chief counsel, to review the record of the hearing unless there is new information that when corrected or considered by the board has a substantial likelihood of resulting in a different decision, defer to the hearing panel's factual findings and credibility determinations, and decide if the hearing panel's decision is supported by substantial evidence; 3) requires the executive officer of BPH to refer a determinately sentenced individual for evaluation if the person may be a sexually violent predator (SVP); and 4) authorizes the Secretary of the California Department of Corrections and Rehabilitation (CDCR) or executive officer of BPH to refer an indeterminately sentenced individual for evaluation if the person may be an SVP.

ANALYSIS:

Existing law:

- 1) Requires the Board of Parole Hearings (BPH) to meet with each incarcerated person during the sixth year prior to the person's minimum eligible parole date

(MEPD) for the purposes of reviewing and documenting the person's activities and conduct pertinent to both parole eligibility. Requires that the BPH provide the incarcerated person with information about the parole hearing process, legal factors relevant to their suitability or unsuitability for parole, and individualized recommendations for the person regarding their work assignments, rehabilitative programs, and institutional behavior during the consultation. (Penal (Pen.) Code, § 3041, subd. (a)(1).)

- 2) Provides that one year prior to the incarcerated person's MEPD, a panel of two or more commissioners or deputy commissioners must meet with the person and shall normally grant parole. (Pen. Code, § 3041, subd. (a)(2).)
- 3) Requires, in the event of a tie vote, the matter to be referred for an en banc review of the record that was before the panel that rendered the tie vote. Requires the board to vote to either grant or deny parole and render a statement of decision upon en banc review. (Pen. Code, § 3041, subd. (a)(3).)
- 4) Requires that an incarcerated person be released upon a grant of parole, subject to all applicable review periods. Prohibits the release of an incarcerated person who has not reached their MEPD unless the person is eligible for earlier release pursuant to their youth offender parole eligibility date or elderly parole eligible date. (Pen. Code, § 3041, subd. (a)(4).)
- 5) Requires the panel or board, sitting en banc, to grant parole to an incarcerated person 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).)
- 6) Requires that any decision of the parole panel finding an incarcerated individual suitable for parole becomes final within 120 days of the date of the hearing. Authorizes the board to review the panel's decision during that period. Requires the panel's decision to become final pursuant unless the board finds that the panel made an error of law, or that the panel's decision was based on an error of fact, or that new information should be presented to the board, any of which when corrected or considered by the board has a substantial likelihood of resulting in a substantially different decision upon a rehearing. Requires the board to consult with the commissioners who conducted the parole consideration hearing in making this determination. (Pen. Code, § 3041, subd. (b)(2).)

- 7) Prohibits a decision of a panel from being disapproved and referred for rehearing except by a majority vote of the board, sitting en banc, following a public meeting. (Pen. Code, § 3041, subd. (b)(3).)
- 8) Provides that an en banc review by the board means a review conducted by a majority of commissioners holding office on the date the matter is heard by the board. (Pen. Code, § 3041, subd. (e).)
- 9) Requires that an en banc review be conducted in compliance with the following:
 - a) The commissioners conducting the review must consider the entire record of the hearing that resulted in the tie vote.
 - b) The review must be limited to the record of the hearing. Requires the record to consist of the transcript or audiotape of the hearing, written or electronically recorded statements actually considered by the panel that produced the tie vote, and any other material actually considered by the panel. Prohibits new evidence or comments from being considered in the en banc proceeding.
 - c) The board must separately state reasons for its decision to grant or deny parole.
 - d) A commissioner who was involved in the tie vote must be recused from consideration of the matter in the en banc review. (Pen. Code, § 3041, subd. (e).)
- 10) Authorizes the Governor, any time before an incarcerated person's release, to request review of a decision by a parole authority concerning the grant or denial of parole to any inmate in a state prison. Requires the Governor to state the reason or reasons for the request, and whether the request is based on a public safety concern, a concern that the gravity of current or past convicted offenses may have been given inadequate consideration, or on other factors. (Pen. Code, § 3041.1, subd. (a).)
- 11) Requires the request, if one has been made, to be reviewed by a majority of commissioners specifically appointed to hear adult parole matters and who are holding office at the time. Requires, in case of a review, a vote in favor of parole by a majority of the commissioners reviewing the request to be required to grant parole to any incarcerated person. (Pen. Code, § 3041.1, subd. (b).)

- 12) Provides for the civil commitment for psychiatric and psychological treatment of an individual incarcerated in state prison found to be a sexually violent predator (SVP) after the person has served their prison commitment. (Welfare (Welf.) & Institutions (Inst.) Code, § 6600, et seq.)
- 13) Defines a “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. Code, § 6600, subd. (a)(1).)
- 14) Requires the Secretary of CDCR, when they have determined that an individual who is in custody (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 an SVP) may be an SVP, to refer the person for evaluation at least six months prior to that individual’s scheduled release date for release from prison. Allows the referral to be made less than six months prior to the person’s scheduled release date if the person was received by CDCR with less than nine months of their sentence to serve, or if the person’s release date is modified by judicial or administrative action. (Welf. & Inst. Code, § 6601, subd. (a)(1).)
- 15) Permits a person committed as an SVP to be held for an indeterminate term upon commitment. (Welf. & Inst. Code, §§ 6604, 6604.1.)

This bill:

- 1) Requires the panel’s decision to become final unless the board finds that the panel made an error of law, or that the panel’s decision was based on an error of fact, or that new information should be presented to the board, any of which when corrected or considered by the board has a substantial likelihood of resulting in a different decision upon a rehearing.
- 2) Requires an en banc decision to grant or deny parole resulting from a tie vote of the granting panel and the vote of the commissioners to be a public record.
- 3) Requires the board, when reviewing a parole decision referred en banc by the Governor or by chief counsel, to do all of the following:

- a) Review the record of the hearing unless there is new information that when corrected or considered by the board has a substantial likelihood of resulting in a different decision.
 - b) Defer to the hearing panel's factual findings and credibility determinations.
 - c) Decide if the hearing panel's decision is supported by substantial evidence.
 - d) Vote to do any of the following:
 - i) Affirm the proposed decision.
 - ii) Order a new hearing.
 - iii) Rescind the proposed decision.
 - iv) Set the parole decision for a rescission hearing based on new information.
 - e) Render a public statement of decision that includes the vote of the commissioners.
- 4) Requires the executive officer of BPH to refer determinately sentenced individuals for evaluation if the person may be an SVP.
- 5) Authorizes the Secretary of CDCR or executive officer of BPH to refer indeterminately sentenced individuals for evaluation if the person may be an SVP.

Background

Parole Suitability Generally. Incarcerated individuals who are indeterminately sentenced must be granted parole by BPH in order to be released from prison. Existing law provides that the parole board "shall 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).) The fundamental consideration when making a determination about an individual's suitability for parole is whether the individual currently poses an unreasonable risk of danger to society if released from prison. (*In re Shaputis* (2008) 44 Cal.4th 1241.) The decision whether to grant parole is an inherently subjective determination. (*In re Rosenkrantz* (2002) 29 Cal.4th 616, 655.)

In deciding whether to grant parole, BPH must consider all relevant and reliable information available. (Cal. Code Regs., tit. 15, § 2281, subd. (b).) Factors BPH must consider include the nature of the commitment offense, including the circumstances of the person's social history; past and present mental state; past

criminal history, including involvement in other criminal misconduct which is reliably documented; the base and other commitment offenses, including behavior before, during and after the crime; past and present attitude toward the crime; any conditions of treatment or control, including the use of special conditions under which the individual may safely be released to the community; and any other information which bears on the individual's suitability for release. (Cal. Code Regs., tit. 15, §§ 2281, subd. (b).) The regulations further state that “[c]ircumstances which taken alone may not firmly establish unsuitability for parole may contribute to a pattern which results in a finding of unsuitability.” (*Ibid.*)

En Banc Review of a BPH Decision. Cases are referred for en banc review when a parole suitability hearing ends with a tie vote regarding whether to grant the person parole (occurs when there is a two-person hearing panel), when the Chief Counsel of BPH refers the case, and when the Governor requests review of a parole decision. (Pen. Code, §§ 3041, subs. (a), (b), (e); 3041.1.) Under Penal Code section 3041, subdivision (a)(5), a member of the hearing panel may also refer a case for en banc review.

The Board meets monthly over a few days at its headquarters in Sacramento to manage the Board's business, including reviewing cases that are referred for en banc review. BPH's Parole Hearing Process Handbook describes the monthly executive meetings as follows:

The Board holds an executive board meeting each month, which is open to the public. The meetings are conducted over two or more days. Members of the public may attend in person, by video, or by phone, as indicated on the meeting agenda. The meeting agenda, including all the decisions or “cases” that will be considered at the meeting, is posted on the Board's website at least 10 calendar days before the date of the meeting. For all cases listed on the agenda, the Board notifies the incarcerated person, their attorney, the prosecutor, and any registered victims and victims' family members. At the monthly executive board meeting, panels of commissioners hear public comment on the cases. Comments may be submitted in writing to the Board before the meeting. Those who want to speak during the meeting may attend the meeting and provide their comments. Comments are generally limited to two minutes per speaker. Once public comments have been received, the Board goes into closed session to deliberate and vote on each case. (BPH, *The California*

Parole Hearing Process Handbook (Mar. 8, 2024), p. 46
<<https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2025/03/CA-Parole-Hearing-Process-Handbook-For-Publication-03-08-24-2.pdf> .) (Internal footnotes omitted.)

The Board consists of 21 parole commissioners. (Government Code § 12838.4.) Penal Code section 3041, subdivision (e), provides that an en banc review by the board means “a review conducted by a majority of commissioners holding office on the date the matter is heard by the board.” Section 3041 requires an en banc review to comply with the following:

- The commissioners conducting the review must consider the entire record of the hearing that resulted in the tie vote.
- The review must be limited to the record of the hearing. The record must consist of the transcript or audiotape of the hearing, written or electronically recorded statements actually considered by the panel that produced the tie vote, and any other material actually considered by the panel. New evidence or comments is prohibited from being considered in the en banc proceeding.
- The board must separately state reasons for its decision to grant or deny parole.
- A commissioner who was involved in the tie vote must be recused from consideration of the matter in the en banc review.

SVPs. The Sexually Violent Predator Act (SVPA) establishes an extended civil commitment scheme for sex offenders who are about to be released from prison but are referred to the Department of State Hospitals (DSH) for treatment in a state hospital because they have suffered from a mental illness which causes them to be a danger to the safety of others. The initial screening is conducted by CDCR and BPH. (Welf. & Inst. Code § 6601, subd. (b).) If a determination is made that the person is likely a sexually violent predator, CDCR is required to refer to the person to DSH for a full evaluation. (*Ibid.*) The current statutory scheme only applies to determinately sentenced individuals.

This bill requires a BPH en banc decision and vote to be a public record. It also requires the board, when reviewing a parole decision referred by the Governor or board’s chief counsel, to review the record of the hearing unless there is new information that when corrected or considered by the board has a substantial likelihood of resulting in a different decision, defer to the hearing panel’s factual findings and credibility determinations, and decide if the hearing panel’s decision is supported by substantial evidence. Finally, this bill requires the executive officer

of BPH to refer a determinately sentenced individual for evaluation if the person may be an SVP and authorizes the Secretary of CDCR or executive officer of BPH to refer an indeterminately sentenced individual for evaluation if the person may be an SVP.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

Major costs, potentially tens of millions of dollars, annually for SVP evaluations (General Fund). The Secretary of the California Department of Corrections and Rehabilitation has similar referral authority as provided to the BPH executive officer.

SUPPORT: (Verified 5/14/26)

California District Attorneys Association

OPPOSITION: (Verified 5/14/26)

California Public Defenders Association
Californians United for a Responsible Budget
Ella Baker Center for Human Rights
Justice2Jobs Coalition
La Defensa
San Francisco Public Defender
UnCommon Law

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