
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 2606 **Hearing Date:** July 31, 2020
Author: Cervantes
Version: February 20, 2020
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Criminal Justice: Supervised Release File*

HISTORY

Source: California Attorney General

Prior Legislation: None

Support: California Police Chiefs Association; Crime Victims United of California;
Riverside Sheriff's Association

Opposition: None known

Assembly Floor Vote: 78 - 0

PURPOSE

The purpose of this bill is to require each county probation department or other supervising county agency to update any supervised release file that is available to them on the California Law Enforcement Communications System (CLETS).

Existing law requires the Department of Justice (DOJ) to maintain a statewide telecommunications system for use by law enforcement agencies. Requires the Attorney General, upon the advice and assistance of an advisory committee, to adopt policies, practices and procedures related to the system. (Gov. Code, § 15150 et seq.)

Existing law requires the DOJ, in conjunction with the Department of Corrections and Rehabilitation (CDCR), to update any supervised release file that is available to law enforcement on CLETS every 10 days to reflect the most recent inmates paroled from facilities under the jurisdiction of CDCR. (Pen. Code, § 14216, subd. (a).)

Existing law requires that commencing on July 1, 2001, the DOJ, in consultation with the State Department of State Hospitals (DSH), update any supervised release file that is available to law enforcement on CLETS every 10 days to reflect patients undergoing community mental health treatment and supervision through the Forensic Conditional Release Program administered by DSH, other than individuals committed as incompetent to stand trial. (Pen. Code, § 14216, subd. (b).)

Existing law creates two classifications of felonies: those punishable in county jail and those punishable in state prison. Provides that sentences to state prison are now primarily limited to registered sex offenders and individuals with current or prior serious or violent felony convictions. (Pen. Code, § 1170, subs. (g) & (h).)

Existing law provides for a period of post-prison supervision immediately following a period of incarceration in state prison. (Pen. Code, § 3000 et seq.)

Existing law requires the following persons released from prison prior to, or on or after July 1, 2013, be subject to parole under the supervision of CDCR:

- A person who committed a serious felony listed in Penal Code section 1192.7, subdivision (c);
- A person who committed a violent felony listed in Penal Code section 667.5, subdivision (c);
- A person serving a Three-Strikes sentence;
- A high-risk sex offender;
- A mentally disordered offender;
- A person required to register as a sex offender and subject to a parole term exceeding three years at the time of the commission of the offense for which they are being released; and,
- A person subject to lifetime parole at the time of the commission of the offense for which they are being released. (Pen. Code, § 3000.08, subs. (a) & (i).)

Existing law requires all other offenders released from prison on or after October 1, 2011, to be placed on post-release community supervision (PRCS) under the supervision of a county probation department. (Pen. Code, §§ 3000.08, subd. (b), 3451.)

Existing law provides that, notwithstanding any other law, a person released from prison prior to October 1, 2011, is subject to parole under CDCR supervision. (Pen. Code, § 3000.09.)

Existing law defines probation as “the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of a probation officer.” (Pen. Code, § 1203, subd. (a).)

Existing law gives the court discretion in felony cases to grant eligible individuals probation for up to five years, or no longer than the maximum term that can be imposed when the maximum term exceeds five years. (Pen. Code, § 1203.1, subd. (a).)

Existing law gives the court discretion in misdemeanor cases to grant probation for up to three years, or no longer than the maximum term that can be imposed when the maximum term exceeds three years. (Pen. Code, § 1203a.)

Existing law authorizes a court, when sentencing a person to county jail for a felony, to commit the person to county jail for either the full term in custody, as specified, or to suspend the execution of a concluding portion of the term selected at the court’s discretion. Provides that this period of suspended execution is supervised by the county probation officer and is known as mandatory supervision. (Pen. Code, § 1170, subd. (h)(5).)

This bill requires each county probation department or other supervising county agency to update any supervised release file that is available to them on CLETS every 10 days by entering any person placed onto postconviction supervision within their jurisdiction and under their authority, including persons on probation, mandatory supervision, and PRCS.

COMMENTS

1. Need for This Bill

According to the author:

Existing law requires the Department of Corrections and Rehabilitation and the Department of State Hospitals to update the Department of Justice every 10 days with information regarding offenders recently released from their facility under supervision. In an effort to provide law enforcement with more complete and accurate information about the supervised population, Assembly Bill 2606 would extend this requirement to county probation departments. If enacted, each county probation department must update the Department of Justice every 10 days about any newly released offenders under their supervision.

2. CLETS

CLETS is “a statewide telecommunications system of communication for the use of law enforcement agencies.” (Gov. Code, § 15152.) The Legislature codified its intent in establishing CLETS: “The maintenance of law and order is, and always has been, a primary function of government The state has an unmistakable responsibility to give full support to all public agencies of law enforcement. This responsibility includes the provision of an efficient law enforcement communications network available to all such agencies. It is the intent of the Legislature that such a network be established and maintained in a condition adequate to the needs of law enforcement.” (Gov. Code, § 15151.)

3. Realignment Changed Supervision of Individuals Convicted of a Felony

Realignment made significant changes to supervision of individuals convicted of a felony. Prior to realignment, individuals released from prison were placed on parole and supervised in the community by CDCR’s parole agents. Realignment shifted the supervision of some released prison inmates from CDCR to county probation departments. Parole under the jurisdiction of CDCR for inmates released from prison on or after October 1, 2011 is limited to the following categories: those whose term was for a serious or violent felony; those sentenced under Three Strikes; those who are classified as high-risk sex offenders; those who are required to undergo treatment as mentally disordered offenders; and those who are subject to lifetime parole. (Pen. Code, §§ 3000.08, subds. (a) & (i), and 3451, subd. (b).) All other inmates released from prison on or after October 1, 2011 are subject to PRCS by the county probation department. (Pen. Code, §§ 3000.08, subd. (b), and 3451, subd. (a).)

Realignment also created two classifications of felonies: those punishable in county jail and those punishable in state prison. Realignment limited which felons can be sent to state prison and applies to qualified defendants who commit qualifying offenses and who were sentenced on or after October 1, 2011. Specifically, sentences to state prison are now primarily limited to

registered sex offenders and individuals with a current or prior serious or violent offense. (Pen. Code, § 1170, subd. (h).)

Under realignment, the sentencing judge has discretion to impose two types of sentences to county jail. (Pen. Code, § 1170, subd. (h)(5).) The court may, when appropriate in the interests of justice, commit the defendant to county jail for the straight term allowed by law. (Pen. Code, § 1170, subd. (h)(5)(A).) When this occurs, the defendant serves the computed term in custody minus conduct credits, and is then released without restriction. Alternatively, the court may send the defendant to county jail for the computed term, but suspend a concluding portion of the term. (Pen. Code, § 1170, subd. (h)(5)(B).) These sentences are called “split” sentences because they generally are composed of a mixture of custody and mandatory supervision time. Mandatory supervision is the period of time in a split sentence when a person is under required supervision of a county probation department following a period of incarceration.

Despite the fact that county probation offices are responsible for monitoring individuals serving split sentences who are on mandatory supervision, that period of time is not considered probation. Rather, probation is defined as the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of a probation officer. (Pen. Code, §§ 1203, subd. (a), 1203a, 1203.1.)

4. Update of Supervised Release File on CLETS

Under current law, the DOJ in conjunction with CDCR must update supervised release files on CLETS every 10 days to show recent inmates paroled from facilities under its jurisdiction. (Pen. Code, § 14216, subd. (a).) The DOJ has a similar duty in conjunction with DSH to update these records to show patients undergoing community health treatment and supervision through the conditional release program administered by DSH. (Pen. Code, § 14216, subd. (b); <https://www.dsh.ca.gov/Treatment/Conditional_Release.html> [as of Jul. 19, 2020].)

Currently, there is no similar requirement to update CLETS with information regarding individuals who have been released under county supervision following conviction of a felony offense. As discussed above, realignment shifted responsibility for managing and supervising individuals convicted of many felony offenses from the state to the counties. This bill would require those supervising county probation departments or county agencies to also update CLETS every 10 days as to persons who have been placed onto postconviction supervision within their jurisdiction, including probation, mandatory supervision, and PCRS.

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