
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: SB 990 **Hearing Date:** March 29, 2022
Author: Hueso
Version: March 16, 2022
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Parole: county of release*

HISTORY

Source: Root & Rebound

Prior Legislation: None

Support: ACLU California Action; Asian Americans Advancing Justice- California; California Attorneys for Criminal Justice; California Catholic Conference; California Public Defenders Association; Communities United for Restorative Youth Justice; Creating Restorative Opportunities and Programs; Ella Baker Center for Human Rights; Essie Justice Project; Impact Justice; Initiate Justice; Insight Garden Program; John Burton Advocates for Youth; People’s Budget Orange County; Roberts Enterprise Development Fund; Stop the Musick; Transforming Justice, Orange County; UC Berkeley, Underground Scholars Initiative; UC Davis, Underground Scholars Initiative; UC Irvine, LIFTED Program; UC Irvine, Underground Scholars Initiative; UC Los Angeles, Underground Scholars Initiative; UC Riverside, Underground Scholars Initiative; UC San Diego, Underground Scholars Initiative; UnCommon Law; Urban Peace Movement

Opposition: None known

PURPOSE

The purpose of this bill is to makes a number of changes related to the placement or transfer of individuals on parole or postrelease community supervision.

Existing law generally requires that an incarcerated person who is released on parole or postrelease community supervision (PRCS) be returned to the county that was the last legal residence of the person prior to the person’s incarceration. Requires that a person who is released on parole or PRCS and who was committed to prison for a sex offense for which the person is required to register as a sex offender, through all efforts reasonably possible, be returned to the city that was the last legal residence of the person prior to incarceration or a close geographic location in which the person has family, social ties, or economic ties and access to reentry services, unless return to that location would violate any other law or pose a risk to the victim. Provides that “last legal residence” does not mean the county or city wherein the person committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital. (Pen. Code, § 3003, subd. (a).)

Existing law provides that an incarcerated person may be returned to another county or city if that would be in the best interests of the public. Requires the Board of Parole Hearings (BPH) or CDCR, depending on which entity is setting the conditions of parole, if it decides on a return to another county or city, to place its reasons in writing in the parolee's permanent record and include these reasons in the notice to the sheriff or chief of police. Requires the paroling authority to consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

- The need to protect the life or safety of a victim, the parolee, a witness, or any other person.
- Public concern that would reduce the chance that the person's parole would be successfully completed.
- The verified existence of a work offer, or an educational or vocational training program.
- The existence of family in another county with whom the incarcerated person has maintained strong ties and whose support would increase the chance that the person's parole would be successfully completed.
- The lack of necessary outpatient treatment programs for parolees receiving treatment as a mentally disordered offender. (Pen. Code, § 3003, subd. (b).)

Existing law requires CDCR, in determining an out-of-county commitment, to give priority to the safety of the community and any witnesses and victims. (Pen. Code, § 3003, subd. (c).)

Existing law requires the paroling authority, in making its decision about an incarcerated person who participated in a joint venture program, to give serious consideration to releasing the person to the county where the joint venture program employer is located if that employer states to the paroling authority that the employer intends to employ the person upon release. (Pen. Code, § 3003, subd. (d).)

Existing law provides that if the victim or witness has requested additional distance in the placement of an incarcerated person on parole, and if BPH or CDCR finds that there is a need to protect the life, safety, or well-being of the victim or witness, an incarcerated person who is released on parole is prohibited from being returned to a location within 35 miles of the actual residence of a victim of, or a witness to, any of the following crimes:

- Specified violent felonies, including murder, mayhem, rape, sodomy, oral copulation, as specified, lewd and lascivious acts on a child under 14, sexual penetration, as specified, continuous sexual abuse of a child, and any felony punishable by death or imprisonment in state prison for life.
- A felony in which the defendant inflicts great bodily injury on a person, other than an accomplice, that has been charged and proved.
- Specified sex offenses.

(Pen. Code, § 3003, subd. (f).)

Existing law prohibits a person who is released on parole or PRCS for a stalking offense from being returned to a location within 35 miles of the victim's or witness' actual residence or place of employment if the victim or witness has requested additional distance in the placement of the person on parole or PRCS, and if BPH or CDCR, or the supervising county agency, as

applicable, finds that there is a need to protect the life, safety, or well-being of the victim. Provides that if a person who is released on PRCS cannot be placed in the county of last legal residence, the supervising county agency may transfer the inmate to another county upon approval of the receiving county. (Pen. Code, § 3003, subd. (h).)

This bill amends the factors the paroling authority must consider when deciding to return a person to a county or city other than the last county or city of legal residence to specify that the educational or vocational program that is located in a county other than the last county of legal residence is a program chosen by the incarcerated person.

This bill requires the paroling authority to consider the existence of a housing option in another county, including with a relative or acceptance into a transitional housing program of choice, when deciding whether to return an incarcerated person to a city or county other than the last legal residence.

This bill requires an incarcerated person, absent clear and convincing evidence that parole transfer would present a threat to public safety, to be released to the county in the location of a post-secondary educational or vocational training program of the incarcerated person's choice, or of a work offer, the incarcerated person's family, outpatient treatment, or housing. Requires CDCR to complete the parole transfer process prior to release and ensure the person is released from prison directly to the county where the post-secondary educational or vocational training program, the work offer, the person's family, outpatient treatment, or housing is located.

This bill requires a person on parole, absent clear and convincing evidence that travel outside of the county of commitment would present a threat to public safety, to be granted a permit to travel outside the county of commitment to a location where the person has post-secondary educational or vocational training program opportunities, including classes, conferences, or extracurricular educational activities, an employment opportunity, or inpatient or outpatient treatment. Requires a parole agent to provide a written response of their decision within seven days after receiving the request for a travel permit. Requires that if the parole agent denies the request for an out-of-county travel permit, the reasons the travel would present a threat to public safety be included in the denial in writing.

This bill requires a person on parole, absent clear and convincing evidence that transfer to a county outside the county of commitment would present a threat to public safety, to be granted approval of an application to transfer residency and parole to another county where the person has a post-secondary educational or vocational training program chosen by the inmate, a work offer, the person's family, inpatient or outpatient treatment, or housing. Requires a parole agent to provide a written response of their decision within seven days after receiving the request for the transfer application. Requires that if the parole agent denies the application for a transfer of parole to another county, the reasons the transfer would present a threat to public safety be included in the denial in writing.

This bill changes existing law that requires the paroling authority to give serious consideration to releasing a joint venture program participant to the county where the joint venture program employer is located if that employer intends to employ the person upon release, and instead requires the paroling authority to release the person to the county where the joint venture program employer is located.

COMMENTS

1. Need For This Bill

According to the author:

Currently, when someone completes their sentence, they return to the county of last legal residence, barring any release restrictions relating to public safety. A person's parole is usually restricted to that same county as well, with very few options for relocation. SB 990 would expand these relocation options, specifically for those incarcerated individuals who have earned a post-secondary or vocational opportunity in another county, such as gaining entry to a California university, by allowing them to transfer their parole to the county that corresponds with their educational or employment opportunity. By allowing this option, we can ensure that California can continue to support successful transitions for formerly-incarcerated people and vital reductions in prison recidivism. By improving access to educational, vocational, and employment options for those who have proven they want to reintegrate, we can increase the likelihood that these individuals not merely survive in the outside, but thrive while contributing to California's workforce.

2. Current Statutes and Regulations

Placement following release generally

Existing law generally requires that a person who is released on parole or PRCS be returned to the county that was the last legal residence of the person prior to the person's incarceration. (Pen. Code, § 3003, subd. (a).) Individuals committed to prison for which sex offender registration is required are to be returned to the city of last legal residence or a close geographic location in which they have family, social, or economic ties and access to reentry services unless a return to that location would violate another law or pose a risk to the victim. (*Id.*) CDCR regulations specify that the county of last legal residence is the county or city of residence where the person resided prior to incarceration for the most current commitment offense. (Cal. Code of Regs., tit 15, § 3741.) If a person has multiple commitment offenses, the most current of the offenses is used to determine the county or city of last legal residence. (*Id.*) Offenses that occur in custody, defined as being confined in state prison, county jail, or a Department of State Hospitals facility for treatment are not to be considered in determining the county or city of last legal residence. (Pen. Code, § 3003, subd. (a), Cal. Code of Regs., tit. 15, § 3741.) Division of Adult Parole Operations (DAPO) determines the county or city of last legal residence using the current Probation Officer's Report, sentencing transcript for the current commitment, arrest report for the current commitment offense, and the abstract of judgment with the recorded county of commitment for the current commitment offense. (Cal. Code of Regs., tit. 15, § 3742.) If all the documents list the person as either transient or homeless, or fail to list a complete address, the person will be paroled to the county of commitment. (*Id.*)

Placement in a county other than the county of last legal residence

Current law provides that an incarcerated person may be returned to another county or city if that would be in the best interests of the public. (Pen. Code, § 3003, subd. (b).) The paroling authority, either BPH or CDCR, must consider the following factors, giving the greatest weight

to the protection of the victim and the safety of the community: the need to protect the life or safety of a victim, the parolee, a witness, or any other person; public concern that would reduce the chance that the person's parole would be successfully completed; the verified existence of a work offer, or an educational or vocational training program; the existence of family in another county with whom the incarcerated person has maintained strong ties and whose support would increase the chance that the person's parole would be successfully completed; and the lack of necessary outpatient treatment programs for parolees receiving treatment as a mentally disordered offender. (*Id.*) The reasons for the paroling authority's decision to return a person to another county or city must be included in the notice to the sheriff or chief of police, or both, who has jurisdiction over the community in which the person was convicted as well as the sheriff or chief of police, or both, who has jurisdiction over the community in which the person is going to be released. (*Id.*, § 3058.6.) Regulations specify that a person may be returned, or while in the community, a person may be transferred, from the person's county or city of last legal residence to a county or city other than the county or city of last legal residence to serve parole if it is in the best interest of the public, and DAPO determines placement in a county or city other than the county or city of last legal residence is appropriate based on specified criteria that match the factors listed above that the paroling authority must consider. (Cal. Code of Regs., tit. 15, §§ 3743, 3744.) However, regulations additionally specify that DAPO must consider the availability for direct placement into a CDCR-funded community-based residential treatment program which is to be approved for transfer provided there are no victim or witness residence restrictions as recorded in the offender's special conditions of parole. (Cal. Code of Regs., tit. 15, § 3744.)

Transfer back to county of last legal residence

CDCR regulations outline the circumstances under which a person who has been released to a county or city other than the county or city of last legal residence may be transferred back to the county or city of last legal residence:

- If a transfer or return of a person to a county or city other than the county or city of last legal residence is based on placement into a CDCR-funded community-based residential treatment program, and the person does not successfully complete the CDCR-funded community-based residential treatment program, the person will be transferred to the county or city of last legal residence.
- If a transfer or return of a person to a county or city other than the county or city of last legal residence is based on participation in an educational, employment, training, or treatment program and the qualifying program is no longer offered within that county or city, the person may be allowed to participate in a similar program in another county or city if one is available and provided there are no victim or witness residence restrictions as recorded in the person's special conditions of parole or board-ordered conditions prohibiting placement in a specific county or city. Provides that the person is to be transferred to the county or city of last legal residence if no programs are available, or if the person does not successfully complete the program.
- Upon conviction of a new misdemeanor or felony criminal conviction.
- Upon violation of the person's general or special conditions of parole, a person may be transferred to the county or city of last legal residence upon the discretion of the unit supervisor. (Cal. Code of Regs., tit. 15, § 3745.)

Other provisions

If a person successfully completes an educational, employment, training, treatment, or a CDCR-funded community-based residential treatment program in a county or city other than the county or city of last legal residence, the person must be given the option to remain in that county or city provided the person does not violate any condition of parole and has established an appropriate residence, defined as a residence that does not cause the person to violate his or her general or special conditions of parole or any other applicable statutory requirements. (*Id.*)

Finally, if a person is released as a result of a BPH parole grant, the person was serving a life term, and the person requests to serve parole in a county or city other than the county or city of last legal residence, any previous BPH order or recommendation for parole placement must be amended or vacated prior to return or transfer if an order or recommendation exists. (Cal. Code of Regs., tit. 15, § 3748.) In addition, there must be no victim or witness concerns, as documented in the special conditions of parole, in the desired county. (*Id.*)

3. Effect of This Bill

This bill makes a number of changes related to the placement or transfer of individuals on parole or PRCS. As outlined above, a person who is released on parole or PRCS is generally required be returned to the county that was the last legal residence of the person prior to the person's incarceration, defined as the county where the person resided prior to incarceration for the most current commitment offense. Although existing law allows a person to be placed in a county other than the county of last legal residence, proponents of the bill argue that it should be easier for individuals being released to get approval for placement in a county other than the last county of legal residence if the person has family ties, educational or employment opportunities, or access to treatment services in another county. Proponents of the bill also argue that it should be easier for this population to travel outside of the county where the person is placed following release for educational, employment, or treatment opportunities as well as move to a different county following initial placement in a county for those types of opportunities. Specifically, this bill would require the following absent clear and convincing evidence that a person's transfer or travel would present a threat to public safety:

- Release of a person to the county where a post-secondary educational or vocational training program of the person's choice, a work offer, the person's family, outpatient treatment, or housing is located.
- Approval to travel outside the county of commitment to a county where post-secondary educational or vocational training program opportunities, including classes, conferences, or extracurricular educational activities, an employment opportunity, or inpatient or outpatient treatment are located.
- Approval to transfer residency and parole to another county where post-secondary educational or vocational training program chosen by the person, a work offer, the person's family, inpatient or outpatient treatment, or housing is located.

These provisions include timelines for the approval or denial of a request to travel or an application to transfer residency as well as require denials of requests to travel or applications to transfer residency to include the reasons for the denial in writing.

This bill additionally changes existing law that requires the paroling authority to *give serious consideration* to releasing a joint venture program participant to the county where the joint venture program employer is located if that employer intends to employ the person upon release, and instead requires the paroling authority to release the person to the county where the joint venture program employer is located. Last, this bill requires the paroling authority to consider the existence of a housing option in another county, including with a relative or acceptance into a transitional housing program of choice, when deciding whether to return an incarcerated person to a city or county other than the last legal residence.

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