

## **Postrelease Community Supervision Act of 2011**

### **Penal Code section 3450.**

(a) This act shall be known and may be cited as the Postrelease Community Supervision Act of 2011.

(b) The Legislature finds and declares all of the following:

(1) The Legislature reaffirms its commitment to reducing recidivism among criminal offenders.

(2) Despite the dramatic increase in corrections spending over the past two decades, national reincarceration rates for people released from prison remain unchanged or have worsened.

National data show that about 40 percent of released individuals are reincarcerated within three years. In California, the recidivism rate for persons who have served time in prison is even greater than the national average.

(3) Criminal justice policies that rely on the reincarceration of parolees for technical violations do not result in improved public safety.

(4) California must reinvest its criminal justice resources to support community corrections programs and evidence-based practices that will achieve improved public safety returns on this state's substantial investment in its criminal justice system.

(5) Realigning the postrelease supervision of certain felons reentering the community after serving a prison term to local community corrections programs, which are strengthened through community-based punishment, evidence-based practices, and improved supervision strategies, will improve public safety outcomes among adult felon parolees and will facilitate their successful reintegration back into society.

(6) Community corrections programs require a partnership between local public safety entities and the county to provide and expand the use of community-based punishment for offenders paroled from state prison. Each county's local Community Corrections Partnership, as established in paragraph (2) of subdivision (b) of Section 1230, should play a critical role in developing programs and ensuring appropriate outcomes for persons subject to postrelease community supervision.

(7) Fiscal policy and correctional practices should align to promote a justice reinvestment strategy that fits each county. "Justice reinvestment" is a data-driven approach to reduce corrections and related criminal justice spending and reinvest savings in strategies designed to increase public safety. The purpose of justice reinvestment is to manage and allocate criminal justice populations more cost effectively, generating savings that can be reinvested in evidence-based strategies that increase public safety while holding offenders accountable.

(8) "Community-based punishment" means evidence-based correctional sanctions and programming encompassing a range of custodial and noncustodial responses to criminal or noncompliant offender activity. Intermediate sanctions may be provided by local public safety entities directly or through public or private correctional service providers and include, but are not limited to, the following:

(A) Short-term "flash" incarceration in jail for a period of not more than 10 days.

(B) Intensive community supervision.

(C) Home detention with electronic monitoring or GPS monitoring.

(D) Mandatory community service.

- (E) Restorative justice programs, such as mandatory victim restitution and victim-offender reconciliation.
  - (F) Work, training, or education in a furlough program pursuant to Section 1208.
  - (G) Work, in lieu of confinement, in a work release program pursuant to Section 4024.2.
  - (H) Day reporting.
  - (I) Mandatory residential or nonresidential substance abuse treatment programs.
  - (J) Mandatory random drug testing.
  - (K) Mother-infant care programs.
  - (L) Community-based residential programs offering structure, supervision, drug treatment, alcohol treatment, literacy programming, employment counseling, psychological counseling, mental health treatment, or any combination of these and other interventions.
- (9) "Evidence-based practices" refers to supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or postrelease supervision.

**Penal Code section 3451.**

- (a) Notwithstanding any other law and except for persons serving a prison term for any crime described in subdivision (b), all persons released from prison on and after October 1, 2011, or, whose sentence has been deemed served pursuant to Section 2900.5 after serving a prison term for a felony shall, upon release from prison and for a period not exceeding three years immediately following release, be subject to community supervision provided by a county agency designated by each county's board of supervisors which is consistent with evidence-based practices, including, but not limited to, supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under postrelease supervision.
- (b) This section shall not apply to any person released from prison after having served a prison term for any of the following:
  - (1) A serious felony described in subdivision (c) of Section 1192.7.
  - (2) A violent felony described in subdivision (c) of Section 667.5.
  - (3) A crime for which the person was sentenced pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12.
  - (4) Any crime where the person eligible for release from prison is classified as a High Risk Sex Offender.
  - (5) Any crime where the person is required, as a condition of parole, to undergo treatment by the State Department of Mental Health pursuant to Section 2962.
- (c) (1) Postrelease supervision under this title shall be implemented by a county agency according to a postrelease strategy designated by each county's board of supervisors.
  - (2) The Department of Corrections and Rehabilitation shall inform every prisoner subject to the provisions of this title, upon release from state prison, of the requirements of this title and of his or her responsibility to report to the county agency responsible for serving that inmate. The department shall also inform persons serving a term of parole for a felony offense who are subject to this section of the requirements of this title and of his or her responsibility to report to

the county agency responsible for serving that parolee. Thirty days prior to the release of any person subject to postrelease supervision by a county, the department shall notify the county of all information that would otherwise be required for parolees under subdivision (e) of Section 3003.

**Penal Code section 3452.**

- (a) Persons eligible for postrelease community supervision pursuant to this title shall enter into a postrelease community supervision agreement prior to, and as a condition of, their release from prison. Persons on parole transferred to postrelease community supervision shall enter into a postrelease community supervision agreement as a condition of their release from state prison.
- (b) A postrelease community supervision agreement shall specify the following:
  - (1) The person's release date and the maximum period the person may be subject to postrelease supervision under this title.
  - (2) The name, address, and telephone number of the county agency responsible for the person's postrelease supervision.
  - (3) An advisement that if a person breaks the law or violates the conditions of release, he or she can be incarcerated in a county jail regardless of whether or not new charges are filed.

**Penal Code section 3453.**

- A postrelease community supervision agreement shall include the following conditions:
- (a) The person shall sign and agree to the conditions of release.
  - (b) The person shall obey all laws.
  - (c) The person shall report to the supervising county agency within two working days of release from custody.
  - (d) The person shall follow the directives and instructions of the supervising county agency.
  - (e) The person shall report to the supervising county agency as directed by that agency.
  - (f) The person, and his or her residence and possessions, shall be subject to search at any time of the day or night, with or without a warrant, by an agent of the supervising county agency or by a peace officer.
  - (g) The person shall waive extradition if found outside the state.
  - (h) The person shall inform the supervising county agency of the person's place of residence, employment, education, or training.
  - (i) (1) The person shall inform the supervising county agency of any pending or anticipated changes in residence, employment, education, or training.
    - (2) If the person enters into new employment, he or she shall inform the supervising county agency of the new employment within three business days of that entry.
  - (j) The person shall immediately inform the supervising county agency if he or she is arrested or receives a citation.
  - (k) The person shall obtain the permission of the supervising county agency to travel more than 50 miles from the person's place of residence.

(l) The person shall obtain a travel pass from the supervising county agency before he or she may leave the county or state for more than two days.

(m) The person shall not be in the presence of a firearm or ammunition, or any item that appears to be a firearm or ammunition.

(n) The person shall not possess, use, or have access to any weapon listed in Section 12020, 16140, subdivision (c) of Section 16170, Section 16220, 16260, 16320, 16330, or 16340, subdivision (b) of Section 16460, Section 16470, subdivision (f) of Section 16520, or Section 16570, 16740, 16760, 16830, 16920, 16930, 16940, 17090, 17125, 17160, 17170, 17180, 17190, 17200, 17270, 17280, 17330, 17350, 17360, 17700, 17705, 17710, 17715, 17720, 17725, 17730, 17735, 17740, 17745, 19100, 19200, 19205, 20200, 20310, 20410, 20510, 20611, 20710, 20910, 21110, 21310, 21810, 22010, 22015, 22210, 22215, 22410, 32430, 24310, 24410, 24510, 24610, 24680, 24710, 30210, 30215, 31500, 32310, 32400, 32405, 32410, 32415, 32420, 32425, 32435, 32440, 32445, 32450, 32900, 33215, 33220, 33225, or 33600.

(o) (1) Except as provided in paragraph (2) and subdivision (p), the person shall not possess a knife with a blade longer than two inches.

(2) The person may possess a kitchen knife with a blade longer than two inches if the knife is used and kept only in the kitchen of the person's residence.

(p) The person may use a knife with a blade longer than two inches, if the use is required for that person's employment, the use has been approved in a document issued by the supervising county agency, and the person possesses the document of approval at all times and makes it available for inspection.

(q) The person agrees to waive any right to a court hearing prior to the imposition of a period of "flash incarceration" in a county jail of not more than 10 consecutive days for any violation of his or her postrelease supervision conditions.

(r) The person agrees to participate in rehabilitation programming as recommended by the supervising county agency.

(s) The person agrees that he or she may be subject to arrest with or without a warrant by a peace officer employed by the supervising county agency or, at the direction of the supervising county agency, by any peace officer when there is probable cause to believe the person has violated the terms and conditions of his or her release.

#### **Penal Code section 3454.**

(a) Each supervising county agency, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, shall establish a review process for assessing and refining a person's program of postrelease supervision. Any additional postrelease supervision conditions shall be reasonably related to the underlying offense for which the offender spent time in prison, or to the offender's risk of recidivism, and the offender's criminal history, and be otherwise consistent with law.

(b) Each county agency responsible for postrelease supervision, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, may determine additional appropriate conditions of supervision listed in Section 3453 consistent with public safety, including the use of continuous electronic monitoring as defined in Section 1210.7, order the provision of appropriate rehabilitation and treatment services, determine appropriate incentives,

and determine and order appropriate responses to alleged violations, which can include, but shall not be limited to, immediate, structured, and intermediate sanctions up to and including referral to a reentry court pursuant to Section 3015, or flash incarceration in a county jail. Periods of flash incarceration are encouraged as one method of punishment for violations of an offender's condition of postrelease supervision.

(c) "Flash incarceration" is a period of detention in county jail due to a violation of an offender's conditions of postrelease supervision. The length of the detention period can range between one and 10 consecutive days. Flash incarceration is a tool that may be used by each county agency responsible for postrelease supervision. Shorter, but if necessary more frequent, periods of detention for violations of an offender's postrelease supervision conditions shall appropriately punish an offender while preventing the disruption in a work or home establishment that typically arises from longer term revocations.

### **Penal Code section 3455.**

(a) If the supervising county agency has determined, following application of its assessment processes, that intermediate sanctions as authorized in subdivision (b) of Section 3454 are not appropriate, the supervising county agency shall petition the revocation hearing officer appointed pursuant to Section 71622.5 of the Government Code to revoke and terminate postrelease supervision. At any point during the process initiated pursuant to this section, a person may waive, in writing, his or her right to counsel, admit the violation of his or her postrelease supervision, waive a court hearing, and accept the proposed modification of his or her postrelease supervision. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of postrelease supervision, the circumstances of the alleged underlying violation, the history and background of the violator, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of postrelease supervision, the revocation hearing officer shall have authority to do all of the following:

- (1) Return the person to postrelease supervision with modifications of conditions, if appropriate, including a period of incarceration in county jail.
- (2) Revoke postrelease supervision and order the person to confinement in the county jail.
- (3) Refer the person to a reentry court pursuant to Section 3015 or other evidence-based program in the court's discretion.
- (4) At any time during the period of postrelease supervision, if any peace officer has probable cause to believe a person subject to postrelease community supervision is violating any term or condition of his or her release, the officer may, without a warrant or other process, arrest the person and bring him or her before the supervising county agency established by the county board of supervisors pursuant to subdivision (a) of Section 3451. Additionally, an officer employed by the supervising county agency may seek a warrant and a court or its designated hearing officer appointed pursuant to Section 71622.5 of the Government Code shall have the authority to issue a warrant for that person's arrest.

(5) The court or its designated hearing officer shall have the authority to issue a warrant for any person who is the subject of a petition filed under this section who has failed to appear for a hearing on the petition or for any reason in the interests of justice, or to remand to custody a person who does appear at a hearing on the petition for any reason in the interests of justice.

(b) The revocation hearing shall be held within a reasonable time after the filing of the revocation petition. Based upon a showing of a preponderance of the evidence that a person under supervision poses an unreasonable risk to public safety, or the person may not appear if released from custody, or for any reason in the interests of justice, the supervising county agency shall have the authority to make a determination whether the person should remain in custody pending a revocation hearing, and upon that determination, may order the person confined pending a revocation hearing.

(c) Confinement pursuant to paragraphs (1) and (2) of subdivision (a) shall not exceed a period of 180 days in the county jail.

(d) A person shall not remain under supervision or in custody pursuant to this title on or after three years from the date of the person's initial entry onto postrelease supervision, except when a bench or arrest warrant has been issued by a court or its designated hearing officer and the person has not appeared. During the time the warrant is outstanding the supervision period shall be tolled and when the person appears before the court or its designated hearing officer the supervision period may be extended for a period equivalent to the time tolled.

### **Penal Code section 3456.**

(a) The county agency responsible for postrelease supervision, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, shall maintain postrelease supervision over a person under postrelease supervision pursuant to this title until one of the following events occurs:

- (1) The person has been subject to postrelease supervision pursuant to this title for three years at which time the offender shall be immediately discharged from postrelease supervision.
- (2) Any person on postrelease supervision for six consecutive months with no violations of his or her conditions of postrelease supervision that result in a custodial sanction may be considered for immediate discharge by the supervising county.
- (3) The person who has been on postrelease supervision continuously for one year with no violations of his or her conditions of postrelease supervision that result in a custodial sanction shall be discharged from supervision within 30 days.
- (4) Jurisdiction over the person has been terminated by operation of law.
- (5) Jurisdiction is transferred to another supervising county agency.
- (6) Jurisdiction is terminated by the revocation hearing officer upon a petition to revoke and terminate supervision by the supervising county agency.

(b) Time during which a person on postrelease supervision is suspended because the person has absconded shall not be credited toward any period of postrelease supervision.

**Penal Code section 3457.**

The Department of Corrections and Rehabilitation shall have no jurisdiction over any person who is under postrelease community supervision pursuant to this title.

**Penal Code section 3458.**

No person subject to this title shall be returned to prison for a violation of any condition of the person's postrelease supervision agreement.

**Penal Code section 3460.**

- (a) Whenever a supervising agency determines that a person subject to postrelease supervision pursuant to this chapter no longer permanently resides within its jurisdiction, and a change in residence was either approved by the supervising agency or did not violate the terms and conditions of postrelease supervision, the supervising agency shall transmit, within two weeks, any information the agency received from the Department of Corrections and Rehabilitation prior to the release of the person in that jurisdiction to the designated supervising agency in the county in which the person permanently resides.
- (b) Upon verification of permanent residency, the receiving supervising agency shall accept jurisdiction and supervision of the person on postrelease supervision.
- (c) For purposes of this section, residence means the place where the person customarily lives exclusive of employment, school, or other special or temporary purpose. A person may have only one residence.
- (d) No supervising agency shall be required to transfer jurisdiction to another county unless the person demonstrates an ability to establish permanent residency within another county without violating the terms and conditions of postrelease supervision.

**Penal Code section 3465.**

Every person placed on postrelease community supervision, and his or her residence and possessions, shall be subject to search or seizure at any time of the day or night, with or without a warrant, by an agent of the supervising county agency or by a peace officer.