



Public Safety and Fiscal Responsibility

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UP DATE ON LEGISLATIVE BILLS

AB 665—This bill authorizes any person who was sentenced for a felony conviction prior to January 1, 2015, and who is, or was, a member of the United States military and who may be suffering from suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of his or her military service, to petition for a recall of sentence under specified conditions. The bill would require the court to determine whether the person satisfies the specified criteria and authorizes the court, in its discretion, to resentence the person following a resentencing hearing.

Any resentencing could not be for a term longer than the original sentence and would require the individual to be given credit for time served. This bill passed the legislature but is currently held in the Senate Appropriations Suspense file, pending budgetary action to provide funds for implementation. This bill is out of the Assembly, where it faced little opposition, and is not in the Suspense file in the Senate, awaiting assignment.

AB 1940—This bill would effectively create an earned discharge program which would allow those on parole to earn credits toward their parole discharge date through accomplishment of various educational, vocational and public service activities. Lifers, subject to possible lifetime parole, could earn credits toward their discharge review date via the same activities. Parolees could earn as much as 12 months credit toward their discharge or discharge review date in a 12-month period, as well as an increase in the distance they are allowed to travel without written permission from their parole

agent. This bill is in Assembly Appropriations Committee, having passed out of Assembly Public Safety Committee.

AB 3115—originally this bill required CDCR to provide education on voting rights and voting after discharge from parole to prisoners. It has now been amended to put that responsibility on the counties, for implementation in the county jails and no longer addresses state prison inmates. As such, we will no longer follow this bill.

AB 2550—prevents male officers from performing pat down searches of female inmates or entering areas where female inmates are likely to be undressed, unless there is imminent danger of harm to the inmate or others, or unless a female officer is not available. Only CIW is mentioned. This bill passed committee unanimously and is now in the in the Appropriations committee. This bill could face difficulty, as it could possibly require the hiring of additional personnel, to make sure a female officer is readily available.

SB 1242—This would add language requiring additional conditions to granting parole be codified, including demonstration of remorse and insight, reasonable time free of disciplinary, realistic post release plans, all of which are already part of parole consideration, though not in legal terms. In some way this bill impinges on the discretion of the BPH yet gives no specific standards/guidelines. More importantly, and the real purpose of the bill, would be to exclude from YOPH consideration those prisoners whose victim was a peace officer or former peace officer. This bill has been referred to the Senate Committee on Public Safety.

SB 1391—This bill would amend Prop. 57, as allowed in the language and consistent with and in furtherance of the intent that proposition, regarding the authority of the District Attorney relative to juvenile offenders. Currently the DA is allowed to transfer a minor from juvenile court to an adult court cases where the minor is alleged to have committed a felony when he or she was 16 years of age or older or in a case in which a specific offense is alleged to have been committed by a minor when he or she was 14 or 15 years of age. This bill would repeal the authority of a district attorney to make a motion to transfer a minor from juvenile court to adult court for those minors alleged to have committed specified serious offenses when he or she was 14 or 15 years of age. thereby amending Proposition 57. This bill has been referred to the Senate Committee on Public Safety and is slated for an initial hearing April 2, 2018.

SB 1437—proposed change to the felony murder rule, through legal language that would remove malice from consideration in a crime unless the individual charged personally committed the homicidal act, acted with premeditated intent to aid and abet that act where in death occurred or the person was a major participant in the underlying felony and acted in reckless indifference to human life. It would also be retrospective, providing a method of resentencing those convicted of first or second-degree murder under the felony murder rule or the natural and probable consequences doctrine. This bill has been referred to the Senate Committee on Public Safety and is awaiting the first hearing.

ON THE BALLOT, MAYBE?

Of the many possible ballot measures California voters will decide this November, five are directly relevant to lifers and other inmates. Of those, one has already failed to garner enough signatures to be included on the ballot, another appears to have failed, one has already gathered 25% of the necessary signers, with the other two still in the race.

Failing to make the ballot was the “**Elderly Inmate Parole Initiative**,” which would have brought to parole consideration inmates who are 80 years and older and had served 10 years of their sentence, either a life sentence or a determinate sentence. Currently, elderly parole is viable under two proceedings, an agreement between the BPH and the three-federal judge panel, and under AB 1448, passed last legislative session.

The latest version of the Second Chance Initiative, “**Second Chance for Youth Second Strikers**,” a simple explanation of which is that it would require parole hearings for “any prisoner who was under 23 years of age at the time of his or her controlling offense.” This initiative appears to have failed, at it was tasked with gathering nearly 366,000 signatures by mid-March; it appears to have failed to do so.

Still in the running and collecting signatures is the “**Voter Restoration and Democracy Act of 2018**,” sponsored by Initiate Justice, which if passed, would amend the state Constitution to allow those individuals currently in prison or on parole for a felony conviction to register and vote in elections. This proposal must gather over 585,000 registered voters’ signatures by April 25, 2018 to qualify for the ballot.

Also gathering signatures but not yet at the 25% mark is “**The People’s Fair Sentencing and Public Safety Act of 2018**,” sponsored by We the People. This initiative would change penal code to move “nonviolent” property offender prisoners who the initiative labels “dangerous criminals.” This is an interesting and complex proposal, with language that is troubling in its divisiveness, comparing inmates to one another in a manner that appears to cast lifers as more dangerous than other prisoners, notwithstanding their exemplary record on parole (thus proving they are less a danger to the public on release) and proposing to create a complex financial system to benefit schools. This initiative must reach the 366,000-signature level by July 17, 2018.

The one ballot proposal that has, at press time, gathered at least a quarter of the signatures required to secure a place on the ballot is, for prisoners, the most problematic. “**Reducing Crime and Keeping California Safe Act of 2018**,” the proposed ballot initiative is put forth by a coalition of police and DAs masquerading as the California Public Safety Partnership.

Well-funded and with well-organized support, if passed, this debacle would reverse many of the gains achieved in the past few years through laws from AB 109 through Props. 36 and 47. Changes would include adding more than a dozen crimes to the list of violent offenses that would preclude early release and mandates parole revocation for anyone tabbed for a parole violation 3 times, among other adverse provisions. This campaign has until July 3, 2018 by July 3, 2018.

Gathering the required number of valid, verifiable signatures of registered voters is always a challenge, requiring massive organization and financing to blanket the state with petitions and signature gathers, within the required time frame. Once a ballot spot is secured, the initiatives will go before the voters in November. It is not until those various initiatives are passed by the voters that they will go into effect, usually at the beginning of the next year.



ANOTHER EMPTY CHAIR?

Although not publicly confirmed when we go to press, LSA has received information from very reliable sources that long-time BPH Commissioner Marisela Montes will be stepping down from her position soon, at least prior to August. Montes was first appointed to the BPH in 2012 by Governor Brown and has been reappointed since then, most recently in August 2017.

By law, those appointed by the Governor and subject to Senate Confirmation, may serve for a year before that confirmation must take place. If any individual is not confirmed by the year anniversary of their appointment they simply drop out of that office. Sources tell us Montes as decided not to sit for the confirmation process.

Montes did face opposition this time around. LSA had opposed her confirmation in previous hearings, sighting various issues, from her practice of usurping various other roles in the hearing (most usually that of language interpreter) and lack of understanding of various prisoner issues, including PTSD suffered by prisoners who previously served in the military. This time around, concerns were based on Montes' apparent, albeit unstated, requirement that former gang members officially debrief before Montes believed them suitable for parole.

Rumors of other BPH departures are also making the rounds, though none that we have yet soundly confirmed. If Montes departs, it will once again leave an empty seat on the board. Since the number of commissioners was increased to 15 recently the board has had considerable trouble keeping all those chairs full. In the last 6 months two other commissioners have also resigned, though both were quickly replaced by the Governor.

WE MUST RESPECTFULLY DECLINE

Life Support Alliance, now starting our ninth year (!) of 'business,' has always been the go-to organization for lifers needing explanations, help, hope and just plain information. And our small and busy staff do our best to answer as many of the 250+ letters each month as we can, as quickly as we can.

There are some requests we can't handle; we aren't attorneys, we can't send free copies of California Lifer Newsletter; can't do legal research for you or figure out your sentence credits or time; we don't contact family members or other prisoners and can't provide you with copies of bills (but we'll tell you how to get those) or court decisions. But just about everything else, we'll tackle. And while lifers

have always been our target population, we've expanded to embrace long-term determinate sentenced prisoners, as well as LWOP, many of whom now do, and more of whom we hope will eventually, have a chance at parole hearing.

In fact, that's sort of where we target our efforts; helping those prisoners who will go to parole hearings understand the process and requirements for parole. And historically, we've also tried to provide answers to any inmate, parole-destined or not, to questions they have. But now, unfortunately, we must respectfully decline to continue that last commission, responding to all determinate and short-term inmates who write to us.

Not that we don't want to help, but it's become a situation of resources and intent. In the past month alone, we've received more than two dozen letters from non-lifers, all asking questions that require considerable research, time and resources in the form of supplies and postage, and the latter, we don't have much of. The questions often asked are also frankly sometimes troubling.

We're focused on lifers, those who have decades ahead of or behind them, trying to earn their way to freedom. Quite frequently short-term inmates, sometimes with as little as a few months remaining before their automatic release, will write us with questions about how to cut additional weeks off their prison time.

Come on guys, get over yourselves. If you have credits or time reduction coming, CDCR will get to you, maybe not as quickly as you'd like, but you'll get out. Lifers can't say the same, and LSA is one of the organizations and resources lifers look to for assistance in that quest for freedom. And seldom do they ask for shortcuts; most want to understand the process, how they can show and prove their life change and thus be found suitable.

So please understand, lifers, LWOPs and DSL inmates going to parole hearings will receive our attention first, and possibly exclusively. If you're a short-timer (yes, we do understand, all prison time is a long time), we simply don't have the wherewithal to become your advocate too.

AND THE WAIT GOES ON. AND ON. AND ON....

To those (im)patiently waiting for the new regulations covering family visits to be implemented, the best we can tell you is—wait some more. Though we continually check (well, we call it checking; CDCR no doubt calls it nagging) every week with officials on the progress of those regs, not much has been forthcoming until now.

After the public comment on the proposed regs closed with a public hearing in mid-February, the department collected all the comments, questions, complaints and suggestions and is currently still reviewing them, before (probably) releasing an amended version to the Office of Administrative Law (OAL), the next step in the approval process. But those reviewing the proposed regs aren't ready to take that next step just yet.

Latest word this week is that it could be two to five months more before CDCR submits the regulations, along with a Final Statement of Reasons (FSOR) to the OAL for review and action. We'll keep 'checking/nagging,' and keep you posted.

Yes, it's a complicated process. But really, it didn't take this long to write the Bible.

ATTORNEY SURVEY

Life Support Alliance is seeking information on the performance and reliability of state appointed attorneys in the lifer parole hearing process. Please fill out the form below in as much detail as possible, use extra sheets if needed. Please include your name, CDC number and date of hearing, as this will allow us to request and review actual transcripts; your name will be kept confidential if you desire. Details and facts are vital; simple yes or no answers are not particularly helpful. Mail to PO Box 277, Rancho Cordova, CA. 95741. We appreciate your help in addressing these issues.

NAME* _____ CDC #* _____ HEARING DATE* _____

COMMISSIONER _____ GRANTED/DENIED(YRS) _____

INITIAL/SUBSEQUENT (how many) _____ EVER FOUND SUITABLE/WHEN _____

ATTORNEY:private/state* _____ PRISON _____

MEET BEFORE HRG? (# of times, length) _____ HOW FAR IN ADVANCE OF HRG? _____

TIME SPENT CONSULTING _____ OBJECT TO PSYCH EVAL? _____

LANGUAGE PROBLEMS? _____ WAS ATTORNEY PREPARED? _____

DID S/HE BRING ANY DOCS NEEDED? _____ SUGGEST STIP/WAIVE? _____

COMMENTS:

(Please provide details regarding attorney's performance, or lack of, including interaction with parole panel and/or any DAs and VNOK present. Was attorney attentive during pre-hearing meeting and hearing, did s/he provide support/advice to you? Was s/he knowledgeable re: your case and/or parole process? Had s/he read your C-file before meeting with you?)

*required