
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SB 1199 **Hearing Date:** April 10, 2018
Author: Wilk
Version: February 15, 2018
Urgency: No **Fiscal:** Yes
Consultant: GC

Subject: *Sex Offenders: Release*

HISTORY

Source: Author

Prior Legislation: AB 255 (Gallagher), Ch. 39, Stats. of 2017
AB 1607 (Fox), Ch. 877, Stats. of 2014

Support: California State Sheriffs' Association

Opposition: None known

Analysis reflects author's amendments to be offered in committee

PURPOSE

This bill provides that when a sex offender is released on parole or post-release community supervision should whenever reasonably possible be returned to the city that was the last legal residence of the inmate prior to incarceration or a close geographic location in which he or she has family, social ties, or other economic ties, unless return to that location would violate any other law or pose a risk to his or her victim.

Existing law requires that, subject to specified exceptions, an inmate who is released on parole shall be returned to the county that was the last legal residence of the inmate prior to his or her incarceration. (Pen. Code, § 3003, subd. (a).)

Existing law states that an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, specified violent felonies or a felony in which the defendant inflicts great bodily injury on any person, if the victim or witness has requested additional distance in the placement of the inmate on parole, and if Board of Parole Hearings (BPH) or the Department of Corrections and Rehabilitation ("CDCR") finds that there is a need to protect the life, safety, or well-being of a victim or witness. (Pen. Code, § 3003, subd. (f).)

Existing law provides that an inmate who is released on parole for a violation of lewd and lascivious acts or continuous sexual abuse of a child, whom the CDCR determines poses a high risk to the public, shall not be placed or reside, for the duration of his or her parole, within one-half mile of any public or private school. (Pen. Code, § 3003, subd. (g).)

Existing law requires that an inmate who is released on parole for an offense involving stalking shall not be returned to a location within 35 miles of the victim's actual residence or place of employment if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the BPH or the CDCR finds that there is a need to protect the life, safety, or wellbeing of the victim. (Pen. Code, § 3003, subd. (h).)

Existing law provides an exception allowing an inmate may be returned to another county if that would be in the best interests of the public. If BPH or CDCR decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

- a) The need to protect the life or safety of a victim, the parolee, a witness, or any other person;
- b) Public concern that would reduce the chance that the inmate's parole would be successfully completed;
- c) The verified existence of a work offer, or an educational or vocational training program;
- d) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed; or
- e) The lack of necessary outpatient treatment programs for parolees receiving treatment as mentally disordered offenders. (Pen. Code, § 3003, subd. (b)(1)-(5).)

Existing law requires the following persons released from prison on or after October 1, 2011, be subject to parole under the supervision of CDCR:

- a) A person who committed a "serious" felony, as specified;
- b) A person who committed a violent felony, as specified;
- c) A person serving a Three-Strikes sentence;
- d) A high risk sex offender;
- e) A mentally disordered offender (MDO);
- f) 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 he or she is being released; and,
- g) A person subject to lifetime parole at the time of the commission of the offense for which he or she is being released. (Pen. Code, § 3000.08, subs. (a) & (c).)

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

This bill provides that when an inmate is released on parole or post-release community supervision and who was committed to prison for a sex offense for which registration is required, shall through all efforts reasonably possible be returned to the city that was the last legal residence of the inmate prior to incarceration or a close geographic location in which he or she has family, social ties, or economic ties, unless return to that location would violate any other law or pose a risk to his or her victim.

COMMENTS

1. Need for This Bill

According to the author:

Jessica's Law (2006) prohibits sex offender parolees released from prison on or after Nov. 8, 2006 from residing within 2,000 feet of any school and park where children congregate.

The unintended consequences of residence restrictions include transience, homelessness, instability, and other obstacles to community reentry that may actually compromise, rather than promote, public safety.

Offenders are often pushed to areas that are more rural (the higher the population density, the more likely neighborhoods include schools, parks, etc.) which often leads to diminished access to specialized treatment and close monitoring by law enforcement professionals, as well as disproportionately clustering offenders in areas with more compliant and cheaper housing.

Employment and housing disruption, as well as separation from supportive and/or dependent family members, can hinder effective treatment and may interfere with the overall goal of reducing recidivism and re-victimization. Thus, residence restrictions, aimed at improving community safety may inadvertently create an environment in which offenders are at an increased risk to reoffend.

SB 1199 requires an inmate who is released on parole or post release community supervision who was committed to prison for a registerable sex offense to be returned to the city that was the last legal residence of the inmate prior to incarceration or a close geographic location in which he or she has family, social ties, or other economic ties, unless return to that location would violate any other law or pose a risk to his or her victim.

The goal of this legislation is to reduce recidivism by always first attempting to place offenders in the community where they have a family or other community connections. The offenders' support system needs to be considered when determining placement along with victim and other restrictions.

SB 1199 will keep our communities safer and provide the newly paroled offender with the best possible chance of not re-offending.

2. Goal of Placing Offenders in Areas that Permit Re-Integration vs. Difficulty in Finding Housing for Sex Offenders

Current law requires a person released from prison on parole or community supervision to be returned to the county where the person most recently resided before entering prison. As drafted, SB 1199 would impose an additional restriction on individuals released following conviction of a sex offense, requiring that they be returned to specifically to the city where they last resided.

This addition restriction will make it more difficult to find appropriate housing for people leaving prison who are required to register under Penal Code § 290. Experts in the field of sex offender management have found residency restrictions such as these make our communities less safe, as they make it nearly impossible for people on the sex offender registry to find suitable housing in their own communities.¹ By making it more difficult to find housing for people who have been convicted of sex offenses, as originally drafted SB 1199 may have the unintended effect of increasing recidivism.²

3. Author's Amendments

The committee has suggested, and the author has agreed to take the following amendment to make the language a directive and not mandatory. This amendment furthers the goal of the bill, to place offenders where they have community ties and are more likely to successfully reintegrate into society. However, the language is not mandatory and permits alternate placement when circumstances such as availability of sex offender therapy or housing restrictions make alternative placement necessary. The suggested amendment is to Section 1 subd. (a) of Penal Code § 3003, and reads as follows:

3003. (a) Except as otherwise provided in this section, an inmate who is released on parole or postrelease community supervision as provided by Title 2.05 (commencing with Section 3450) shall be returned to the county that was the last legal residence of the inmate prior to his or her incarceration. An inmate who is released on parole or postrelease community supervision as provided by Title 2.05 (commencing with Section 3450) and who was committed to prison for a sex offense for which registration is required pursuant to Section 290, shall ***through all efforts reasonably possible*** be returned to the city that was the last legal residence of the inmate prior to incarceration or a close geographic location in which he or she has family, social ties, or economic ties, unless return to that location would violate any other law or pose a risk to his or her victim. For purposes of this subdivision, "last legal residence" shall not be construed to mean the county or city wherein the inmate committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital.

-- END --

¹ See Jill S. Levenson & Leo P. Cotter, The Impact of Sex Offender Residence Restrictions: 1,000 Feet from Danger or One Step from Absurd?, 49 Int'l J. Offender Therapy & Comp. Criminology 168 (2005) (suggesting that residence restrictions disrupt stability and lead to an increase in risk factors associated with sex offense recidivism); Colo. Dep't Of Pub. Safety, Report On Safety Issues Raised By Living Arrangements For And Location Of Sex Offenders In The Community 4 (2004) ("Placing restrictions on the location of . . . supervised sex offender residences may not deter the sex offender from re-offending and should not be considered as a method to control sexual offending recidivism"); Minn. Dep't Of Corr., Level Three Sex Offenders Residential Placement Issues: 2003 Report To The Legislature 9 (2003) ("Enhanced safety due to proximity restrictions may be a comfort factor for the general public, but it does not have any basis in fact.").

² *Id.*