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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

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**Bill No:** AB 335                      **Hearing Date:** June 13, 2017  
**Author:** Kiley  
**Version:** April 20, 2017  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** MK

**Subject:** *Parole: Placement at Release*

## HISTORY

Source: Author

Prior Legislation: None

Support: California District Attorneys Association; California State Sheriffs' Association;  
Crime Victims United of California; San Diego County District Attorney

Opposition: None known

Assembly Floor Vote: 76 - 0

## PURPOSE

*The purpose of this bill is to provide that an inmate who has committed specified crimes and is released on parole shall not be returned to a location within 35 miles of the residence of a victim or witness if the victim or witness makes such a request and the Board of Parole Hearings (BPH) or the California Department of Corrections (CDCR) finds that the placement is necessary to protect the victim or witness.*

*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. (Penal Code § 3003 (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 CDCR finds that there is a need to protect the life, safety, or well-being of a victim or witness. (Penal Code § 3003 (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. (Penal Code § 3003 (g).)

*Existing law* requires, 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. (Penal Code § 3003(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:

- 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 inmate'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 inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed; or
- The lack of necessary outpatient treatment programs for parolees receiving treatment as mentally disordered offenders. (Penal Code § 3003 (b)(1)-(5).)

*Existing law* requires all persons paroled before October 1, 2011 to remain under the supervision of the California Department of Corrections and Rehabilitation (CDCR) until jurisdiction is terminated by operation of law or until parole is discharged. (Penal Code § 3000.09.)

*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 person who committed a "serious" felony, as specified;
- A person who committed a violent felony, as specified;
- A person serving a Three-Strikes sentence;
- A high risk sex offender;
- A mentally disordered offender (MDO);
- 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,

- A person subject to lifetime parole at the time of the commission of the offense for which he or she is being released. (Penal Code § 3000.08 (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. (Penal Code § 3000.08 (b).)

*Existing law* limits the term for PRCS to three years. (Penal Code, § 3451(a).)

*Existing law* provides for intermediate sanctions for violating the terms of PRCS, including "flash incarceration" for up to 10 days. (Penal Code § 3454.)

*Existing law* specifies that if PRCS is revoked, the offender may be incarcerated in the county jail for a period not to exceed 180 days for each custodial sanction. (Penal Code § 3455 (d).)

*Existing law* prohibits the return of an offender who violates conditions of PRCS to prison. (Pen. Code § 3458.)

*This bill* adds to the list of offenses for which a victim or witness may request that an inmate may not be returned to a location within 35 miles of the residence of the victim or witness the following offenses:

- Sexual penetration by force or violence;
- Sexual penetration of a child under the age of 14 where the perpetrator is more than 10 years older than the child;
- Rape of a person that is incapable of giving consent because of a mental disorder or physical disability;
- Rape where a person is incapable of resisting by any intoxicating or anesthetic substance, or any controlled substance;
- Rape of an unconscious person;
- Sodomy of an unconscious person;
- Sodomy of a person that is incapable of giving consent because of a mental disorder or physical disability;
- Sodomy where a person is incapable of resisting by any intoxicating or anesthetic substance, or any controlled substance;
- Oral copulation of an unconscious person;
- Oral copulation of a person that is incapable of giving consent because of a mental disorder or physical disability;

- Oral copulation where a person is incapable of resisting by any intoxicating or anesthetic substance, or any controlled substance;
- Sexual penetration of a person incapable of consent because of a mental disorder or developmental or physical disability.
- Sexual penetration of an unconscious person; and,
- Sexual penetration where a person is incapable of resisting by any intoxicating or anesthetic substance or any controlled substance.

*This bill* recasts the existing list of offenses that allow a victim to request that an inmate not be returned to a location within 35 miles of the residence of the victim or witness.

## COMMENTS

### 1. Need for This Bill

According to the author:

Under existing law, a victim of specified violent felonies including forcible rape, sodomy, and oral copulation, can petition the Board of Parole Hearings (BOPH) or the California Department of Corrections and Rehabilitation (CDCR) to provide a 35-mile barrier between themselves and their perpetrator when the inmate is released on parole or post-release community supervision. Specifically, AB 335 would expand current protections by allowing this reasonable distance to be requested by a victim of the following crimes:

- i) Rape, sodomy, sexual penetration, or oral copulation of an unconscious person
- ii) Rape, sodomy, sexual penetration, or oral copulation by an intoxicating, anesthetic, or controlled substance
- iii) Rape, sodomy, or oral copulation of a person unable to give legal consent
- iv) Forcible sexual penetration
- v) Sexual penetration of a minor under the age of 14
- vi) Sexual Penetration of a victim who is unable to give legal consent because of a mental disorder

### 2. Parole limitations

Under existing law, people released on parole after a conviction for specified offenses shall not be returned to a location within 35 miles of the residence of a victim of or witness to that offenses if the victim or witness makes a such a request and the Board of Parole Hearings or the Department of Corrections and Rehabilitation finds that the placement is necessary to protect the victim or witness. This bill will add specified sex offenses to the list off offenses for which a victim or witness can request that the person be placed more than 35 miles away for the requestor's residence.