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IMPORTANT INFORMATION REGARDING THE USE OF THIS MANUAL:
When putting this material together, we did our best to give you useful and accurate information because we know that prisoners often have trouble getting legal information and we cannot give specific advice to all prisoners who ask for it. The laws change often and can be looked at in different ways. We do not always have the resources to make changes to this material every time the law changes. If you use this pamphlet, it is your responsibility to make sure that the law has not changed and still applies to your situation. Most of the materials you need should be available in the prison or public law library.

UPDATE

to the

PAROLEE RIGHTS HANDBOOK

(October 2011)

In 2011 the California legislature passed Assembly Bills 17x, 109, 116 and 117, which made changes to the laws about parole supervision and revocation. The state made these changes as part of efforts to reduce prison crowding and to reduce the number of people who get sent back to prison for parole violations. This letter describes the most important changes. Additional information regarding state parole law and procedures is available in the Prison Law Office's *Parolee Rights Handbook*.

PLEASE NOTE THAT THIS LETTER WAS WRITTEN WHILE THE STATE IS STILL MAKING CHANGES TO THE PAROLE PROCESS. THIS LETTER IS BASED ON THE INFORMATION AVAILABLE AS OF EARLY OCTOBER 2011. HOWEVER, THE RULES MAY CHANGE AND THE PROCEDURES AND POLICIES MAY BE DIFFERENT IN DIFFERENT COUNTIES.

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I. AFTER OCTOBER 1, 2011, MANY PEOPLE LEAVING PRISON WILL BE ON POST-RELEASE COMMUNITY SUPERVISION (“PRCS”) INSTEAD OF ON STATE PAROLE

The state has created a new type of supervision program that will be used instead of parole for some people. The program is called Post-Release Community Supervision (PRCS). People on PRCS will be supervised by county agencies, not the parole division of the California Department of Corrections and Rehabilitation (CDCR). How PRCS will operate, and what services will be available, will vary county by county.

Eligibility for PRCS

Before a person is released from prison, a correctional counselor will screen the case and decide whether to refer the person to parole or PRCS. Any person who is eligible will be placed on PRCS. The following people are *not* eligible for PRCS and must serve state parole:

- people whose current prison terms are for a serious felony as described in Penal Code § 1192.7(c);
- people whose current prison terms are for a violent felony under Penal Code § 667.5(c);
- people sentenced as three-strikers under Penal Code § 1170.12(c)(2);
- sex offenders who are classified as high risk by CDCR staff or who are serving a parole period of more than three years;
- people who are Mentally Disordered Offenders (MDOs) under Penal Code § 2962.¹

Parolees who were paroled from state prison prior to October 1, 2011 will stay on parole and will not be placed on PRCS. However, when state parolees are released after revocations terms, the CDCR will screen their cases to decide if they should be returned to parole or placed on PRCS.²

PRCS Terms and Conditions

PRCS can last up to three years.³ A person can get off PRCS earlier if he or she:

- has served six consecutive months on PRCS with no violations of the conditions and the supervising agency recommends discharge; OR
- has served one year on PRCS with no violations; the discharge should happen within 30 days after the year is completed.⁴

¹ Penal Code §§ 3000.08(c)(1) and 3451.

² Penal Code § 3000.09.

³ Penal Code §§ 3455(c); 3456(a).

⁴ Penal Code § 3456(b)-(c).

People will generally be placed on PRCS in the county of their last legal residence prior to going to prison. However, the CDCR can decide to place a person on PRCS in a different county for various reasons including victim safety concerns or to help the person maintain family ties or benefit from work or educational programs.⁵ The law implies that people may seek permission to transfer to a different county after they are on PRCS.⁶ It is unclear what the process would be for seeking such a transfer.

The law says that people placed on PRCS must report “to the supervising county agency.”⁷ Usually the supervising agency will be a county probation department. Prison correctional counselors should tell people when and where to report when they get out of prison.⁸

People on PRCS have to comply with supervision conditions and have to agree to the conditions in order to be released from prison.⁹ The standard conditions are similar to parole conditions, and include agreeing to be searched by law enforcement without probable cause, informing the probation department of home and work addresses, and not possessing or having access to weapons.¹⁰

Violations of PRCS Conditions

The state has told the counties to develop and use “intermediate sanctions” for minor violations of PRCS conditions. Intermediate sanctions include programs like drug treatment, mental health counseling and job assistance.¹¹

Another type of punishment for violation of PRCS conditions is “flash incarceration.” Flash incarceration is an immediate return to jail for a period of up to 10 days. The law provides that people on PRCS must agree to give up any right to demand a court hearing before flash incarceration is imposed.¹² It is unclear whether this requirement complies with due process rights and it is possible that it will be subject to court challenges.

⁵ Penal Code § 3003(a), (b) and (c).

⁶ See Penal Code § 3456(e).

⁷ Penal Code § 3453.

⁸ See CDCR training materials at www.cdcr.ca.gov/realignment/docs/PRCS-County.pdf.

⁹ Penal Code § 3452.

¹⁰ Penal Code §§ 3067(a) and 3453.

¹¹ Penal Code § 3450(b)(8).

¹² Penal Code §§ 3453(q) and 3454(c). Also, people do not earn conduct credits toward their PRCS term for periods of “flash incarceration.” Penal Code §§ 4019(I) and 3450(b)(8)(A).

If the PRCS supervising agency decides that more serious punishment may be appropriate, the agency staff will file a petition to revoke and terminate PRCS. The petition will be filed with a revocation hearing officer appointed by the superior court.¹³ People who are facing a PRCS revocation petition have a right to a hearing and to be represented by an attorney appointed by the county.¹⁴ Alternatively, people on PRCS can give up the right to an attorney and a hearing, admit the violation and accept the offered punishment.¹⁵

The rules for the PRCS revocation hearings are still being developed. Under proposed rules, the hearing would have to take place within 45 days after the petition is filed.¹⁶ At the hearing, the officer will determine whether the person has violated his or her PRCS conditions. If the hearing officer finds that the person has violated the PRCS conditions, the officer has the authority to impose any of the following punishments:

- return the person to PRCS with modified conditions;
- refer the person to a reentry court or another program in the court's discretion; OR
- revoke PRCS and order the person confined to county jail for no more than 180 days.¹⁷

II. THERE ARE SOME NEW RULES FOR PEOPLE ON STATE PAROLE

Some Parolees can be Discharged from Parole Sooner

People who are on state parole for non-serious, non-violent offenses and who are not required to register as sex offenders are now eligible for parole discharge review after six months of continuous parole.¹⁸ For purposes of this new rule, parolees do not get credit for time they have served on parole before October 1, 2011. In other words, a parolee must serve six months of violation-free parole after October 1, 2011 to be eligible for six-month discharge review. At the discharge review, the Board of Parole Hearings (BPH) must discharge the person from parole unless the Board determines that there is good cause to require the person to serve more parole time.¹⁹

¹³ Penal Code § 3455(a).

¹⁴ Penal Code § 3455(a).

¹⁵ Penal Code § 3455(a).

¹⁶ Proposed Rules of Court, rules 4.540-4.541, www.courts.ca.gov/documents/itc-sp11-14.pdf.

¹⁷ Penal Code 3455.

¹⁸ Penal Code § 3001(a). Serious felonies are listed in Penal Code § 1192.7 and violent felonies are listed in Penal Code § 667.5. Sex offender registration laws are set forth in Penal Code § 290 et seq.

¹⁹ Penal Code § 3001(f).

The Length of Parole Revocation Terms Has Changed

For non-life parolees *whose hold is placed on or after October 1, 2011*, the maximum return-to-custody term is now 180 days instead of a year.²⁰ Violations that used to be punishable by a 0 to 4 month term now carry a term of 0 to 60 days, violations that used to be punishable by a term of 5 to 9 months now carry a term of 75 to 135 days, and violations that used to be punishable by a 10 to 12 month term now carry a term of 150 to 180 days.²¹

For all parole violations that result in holds on or after October 1, 2011, parolees can now earn day-for-day good conduct credit (“half-time”) on their parole revocation terms, regardless of the nature of their commitment offense or parole violation. Also, parolees will no longer be subject to extension of their parole revocation terms for in-custody misconduct.²²

All non-life parolees will now serve their parole revocation terms in county jails. Lifer parolees will continue to serve their revocations in state prison.²³

The BPH will continue to conduct parole violation hearings until July 1, 2013. After that date, the plan is for parole revocation hearings to be held by courts.

III. PEOPLE SENTENCED TO FELONY TERMS IN COUNTY JAIL DO NOT HAVE TO SERVE ANY PAROLE OR COMMUNITY SUPERVISION AFTER RELEASE

For offenses committed on or after October 1, 2011, some people with felony sentences of up to three years will serve their terms in county jail instead of state prison. Currently, there is no law authorizing any type of parole or post-release community supervision after an inmate has served a felony term in county jail. However, the sentencing courts will have discretion to “split” a felony term by ordering a defendant to serve part of the term in the jail and the rest of the term on county-supervised probation.²⁴

²⁰ Penal Code § 3056(a).

²¹ Board of Parole Hearing Directive 11/03, p. 4; 15 CCR § 2646.1.

²² Penal Code § 3057(e); Board of Parole Hearing Directive 11/03, p. 4.

²³ Penal Code § 3056(a)-(b).

²⁴ Penal Code § 1170(h)(5).