

**Amended Mock-up for 2025-2026 SB-1446 (Committee on Public Safety (S) -**  
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**Mock-up based on Version Number 98 - Amended Senate 4/27/26**  
**Submitted by: Staff Name, Office Name**

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 3041 of the Penal Code is amended to read:

**3041.** (a) (1) In the case of any incarcerated person sentenced pursuant to any law, other than Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, the Board of Parole Hearings shall meet with each incarcerated person during the sixth year before the incarcerated person's minimum eligible parole date for the purposes of reviewing and documenting the incarcerated person's activities and conduct pertinent to parole eligibility. During this consultation, the board shall provide the incarcerated person information about the parole hearing process, legal factors relevant to the incarcerated person's suitability or unsuitability for parole, and individualized recommendations for the incarcerated person regarding the incarcerated person's work assignments, rehabilitative programs, and institutional behavior. Within 30 days following the consultation, the board shall issue its positive and negative findings and recommendations to the incarcerated person in writing.

(2) One year before the incarcerated person's minimum eligible parole date a panel of two or more commissioners or deputy commissioners shall again meet with the incarcerated person and shall normally grant parole as provided in Section 3041.5. No more than one member of the panel shall be a deputy commissioner.

(3) In the event of a tie vote, the matter shall be referred for an en banc review of the record that was before the panel that rendered the tie vote. Upon en banc review, the board shall vote to either grant or deny parole and render a statement of decision. The en banc review shall be conducted pursuant to subdivision (e).

(4) Upon a grant of parole, the incarcerated person shall be released subject to all applicable review periods. However, an incarcerated person shall not be released before reaching the incarcerated person's minimum eligible parole date as set pursuant to Section 3046 unless the incarcerated person is eligible for earlier release pursuant to the incarcerated person's youth offender parole eligibility date or elderly parole eligible date.

(5) At least one commissioner of the panel shall have been present at the last preceding meeting, unless it is not feasible to do so or where the last preceding meeting was the initial meeting. Any person on the hearing panel may request review of any decision regarding parole for an en banc hearing by the board. In case of a review, a majority vote in favor of parole by the board members participating in an en banc review is required to grant parole to any incarcerated person.

(b) (1) The panel or the board, sitting en banc, shall grant parole to an incarcerated person unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual.

(2) (A) After July 30, 2001, any decision of the parole panel finding an incarcerated person suitable for parole shall become final within 120 days of the date of the hearing. During that period, the board may conduct ~~administrative~~ review of the panel's decision.

(B) The panel's decision shall become final pursuant to this subdivision unless the board finds that the panel made an error of law, or that the panel's decision was based on an error of fact, or that new information should be presented to the board, any of which when corrected or considered by the board has a substantial likelihood of resulting in a different decision upon a rehearing.

(C) In making this determination, the board shall consult with the commissioners who conducted the parole consideration hearing.

(3) A decision of a panel shall not be disapproved and referred for rehearing except by a majority vote of the board, sitting en banc, following a public meeting.

(c) For the purpose of reviewing the suitability for parole of those incarcerated persons eligible for parole under prior law at a date earlier than that calculated under Section 1170.2, the board shall appoint panels of at least two persons to meet annually with each incarcerated person until the time the person is released pursuant to proceedings or reaches the expiration of the incarcerated person's term as calculated under Section 1170.2.

(d) It is the intent of the Legislature that, during times when there is no backlog of incarcerated persons awaiting parole hearings or life parole consideration hearings, hearings will be conducted by a panel of three or more members, the majority of whom shall be commissioners. The board shall report monthly on the number of cases where an incarcerated person has not received a completed initial or subsequent parole consideration hearing within 30 days of the hearing date required by subdivision (a) of Section 3041.5 or paragraph (2) of subdivision (b) of Section 3041.5, unless the incarcerated person has waived the right to those timeframes. That report shall be considered the backlog of cases for purposes of this section, and shall include information on the progress toward eliminating the backlog, and on the number of incarcerated persons who have waived their right to the above timeframes. The report shall be made public at a regularly scheduled meeting of the board and a written report shall be made available to the public and transmitted to the Legislature quarterly.

(e) An en banc review by the board means a review conducted by a majority of commissioners holding office on the date the matter is heard by the board. An en banc review shall be conducted in compliance with the following:

(1) When considering a parole decision that resulted in a tie vote, the commissioners making the final decision shall consider the entire record of the hearing that resulted in the tie vote, and the review shall be limited to the record of the hearing. A commissioner who served on the hearing panel shall be recused from consideration of the matter in the en banc review. The board shall separately state reasons for its en banc decision to grant or deny parole. The decision and the vote of the commissioners shall be a public record.

**(2) The board, when reviewing a parole grant referred after a review pursuant to subdivision (b)(2)(B) of this section shall determine if there was a material error of law or fact, or new information that when corrected or considered by the board has a substantial likelihood of resulting in a different decision upon a rehearing. The board shall vote to either affirm the decision or vacate the decision and set a new hearing. The decision and the vote of the commissioners shall be a public record.**

**(2) The board, when reviewing a parole decision referred en banc by the Governor pursuant to Sections 3041.1 or 3041.2 or by chief counsel pursuant to subdivision (b) of this section, shall do all of the following: address the Governor's stated reason or reasons for the requested review. The board shall vote to either affirm the decision, or refer for a rescission hearing for lack of substantial evidence, or, in the case of a denial, vacate the decision and set a new hearing. The decision and the vote of the commissioners shall be a public record.**

~~(A) Review the record of the hearing unless there is new information that when corrected or considered by the board has a substantial likelihood of resulting in a different decision.~~

~~(B) Defer to the hearing panel's factual findings and credibility determinations.~~

~~(C) Decide if the hearing panel's decision is supported by substantial evidence.~~

~~(D) Vote to do any of the following:~~

~~(i) Affirm the proposed decision.~~

~~(ii) Order a new hearing.~~

~~(iii) Rescind the proposed decision.~~

~~(iv) Set the parole decision for a rescission hearing based on new information.~~

~~(E) Render a public statement of decision that shall include the vote of the commissioners.~~

**SEC. 2.** Section 6601 of the Welfare and Institutions Code is amended to read:

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**6601.** (a) (1) (A) When the Secretary of the Department of Corrections and Rehabilitation or the ~~executive officer~~ **Executive Officer** of the Board of Parole Hearings determines that an individual who is in custody under the jurisdiction of the Department of Corrections and Rehabilitation, who is either serving a determinate prison sentence or whose parole has been revoked, and who is not in custody for the commission of a new offense committed while the individual was serving an indeterminate term in a state hospital as a sexually violent predator, may be a sexually violent predator, the Secretary of the Department of Corrections and Rehabilitation or the ~~executive officer~~ **Executive Officer** of the Board of Parole Hearings shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the incarcerated person was received by the department with less than nine months of their sentence to serve, if the incarcerated person's release date is modified by judicial or administrative action, or if the incarcerated person will be scheduled for a ~~parole~~ **parole** hearing in the next six months, the Secretary of the Department of Corrections and Rehabilitation or executive officer of the Board of Parole Hearings may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the incarcerated person's scheduled release date.

(B) When the Secretary of the Department of Corrections and Rehabilitation or the executive officer of the Board of Parole Hearings determines that an individual who is in custody under the jurisdiction of the Department of Corrections and Rehabilitation, who is serving an indeterminate prison sentence or whose parole has been revoked, and who is not in custody for the commission of a new offense committed while the individual was serving an indeterminate term in a state hospital as a sexually violent predator, may be a sexually violent predator, the Secretary of the Department of Corrections and Rehabilitation or the executive officer of the Board of Parole Hearings may, at least six months prior to that individual's scheduled date for release from prison, or if the incarcerated person will be scheduled for a parole hearing in the next six months, refer the person for evaluation in accordance with this section. However, if the incarcerated person's scheduled release date is less than six months after the decision to grant parole is made, the Secretary of the Department of Corrections and Rehabilitation or the executive officer of the Board of Parole Hearings may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the incarcerated person's scheduled release date.

(2) When an individual is in custody under the jurisdiction of the Department of Corrections and Rehabilitation for the commission of a new offense committed while the individual was serving an indeterminate term in a state hospital as a sexually violent predator, the Secretary of the Department of Corrections and Rehabilitation shall, at least six months prior to the individual's scheduled date for release from prison, refer the person directly to the State Department of State Hospitals for a full evaluation of whether the person still meets the criteria in Section 6600. However, if the incarcerated person was received by the department with less than nine months of their sentence to serve, or if the incarcerated person's release date is modified by judicial or administrative action, the secretary may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the incarcerated person's scheduled release date. The evaluation shall be conducted in accordance with subdivisions (c) to (g), inclusive. If both evaluators concur that the person has a diagnosed mental disorder so that the person is likely

to engage in acts of sexual violence without appropriate treatment and custody, the Director of State Hospitals shall forward a request for a court order no less than 20 calendar days prior to the scheduled release date of the person to the county designated in subdivision (i) authorizing a transfer of the individual from the Department of Corrections and Rehabilitation to the State Department of State Hospitals to continue serving the remainder of the individual's original indeterminate commitment as a sexually violent predator if the original petition has not been dismissed. If the petition has previously been dismissed, the Director of State Hospitals shall forward a request for a new petition to be filed for commitment to the county designated in subdivision (i) no less than 20 calendar days prior to the scheduled release date of the person consistent with subdivision (d).

(3) A petition may be filed under this section if the individual was in custody pursuant to a prison term, parole revocation term, or a hold placed pursuant to Section 6601.3, at the time the petition is filed. A petition shall not be dismissed on the basis of a later judicial or administrative determination that the individual's custody was unlawful, if the unlawful custody was the result of a good faith mistake of fact or law. This paragraph applies to any petition filed on or after January 1, 1996.

(b) The person shall be screened by the Department of Corrections and Rehabilitation and the Board of Parole Hearings based on whether the person has committed a sexually violent predatory offense and on a review of the person's social, criminal, and institutional history. This screening shall be conducted in accordance with a structured screening instrument developed and updated by the State Department of State Hospitals in consultation with the Department of Corrections and Rehabilitation. If as a result of this screening it is determined that the person is likely to be a sexually violent predator, the Department of Corrections and Rehabilitation shall refer the person to the State Department of State Hospitals for a full evaluation of whether the person meets the criteria in Section 6600.

(c) The State Department of State Hospitals shall evaluate the person in accordance with a standardized assessment protocol, developed and updated by the State Department of State Hospitals, to determine whether the person is a sexually violent predator as defined in this article. The standardized assessment protocol shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of reoffense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder.

(d) Pursuant to subdivision (c), the person shall be evaluated by two practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of State Hospitals. If both evaluators concur that the person has a diagnosed mental disorder so that the person is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of State Hospitals shall forward a request for a petition for commitment under Section 6602 to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment.

(e) If one of the professionals performing the evaluation pursuant to subdivision (d) does not concur that the person meets the criteria specified in subdivision (d), but the other professional concludes that the person meets those criteria, the Director of State Hospitals shall arrange for further examination of the person by two independent professionals selected in accordance with subdivision (g).

(f) If an examination by independent professionals pursuant to subdivision (e) is conducted, a petition to request commitment under this article shall only be filed if both independent professionals who evaluate the person pursuant to subdivision (e) concur that the person meets the criteria for commitment specified in subdivision (d). The professionals selected to evaluate the person pursuant to subdivision (g) shall inform the person that the purpose of their examination is not treatment but to determine if the person meets certain criteria to be involuntarily committed pursuant to this article. It is not required that the person appreciate or understand that information.

(g) An independent professional who is designated by the Secretary of the Department of Corrections and Rehabilitation or the Director of State Hospitals for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. The requirements set forth in this section also shall apply to professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

(h) (1) If the State Department of State Hospitals determines that the person is a sexually violent predator as defined in this article, the Director of State Hospitals shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i) no less than 20 calendar days prior to the release of the person. Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment in the superior court.

(2) If a hold is placed pursuant to Section 6601.3 and the State Department of State Hospitals determines that the person is a sexually violent predator as defined in this article, the Director of State Hospitals shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i) no less than 20 calendar days prior to the end of the hold.

(3) The person shall have no right to enforce the time limit set forth in this subdivision and shall have no remedy for its violation.

(i) If the county's designated counsel concurs with the recommendation, a petition for commitment shall be filed in the superior court of the county in which the person was convicted of the offense for which the person was committed to the jurisdiction of the Department of Corrections and Rehabilitation. The petition shall be filed, and the proceedings shall be handled, by either the district attorney or the county counsel of that county. A person's subsequent conviction for an offense that is not a sexually violent offense committed while in the custody of the Department of Corrections and Rehabilitation or the State Department of State Hospitals that occurs prior to the

resolution of a petition filed pursuant to this section shall not change jurisdiction for the petition from the county in which the person was convicted of the offense for which the person was committed to the jurisdiction of the Department of Corrections and Rehabilitation. If a person is convicted of a subsequent sexually violent offense committed while in the custody of the Department of Corrections and Rehabilitation or the State Department of State Hospitals that occurs prior to the resolution of a petition filed pursuant to this section a subsequent petition for commitment as a sexually violent predator pursuant to this section shall be filed in the superior court of the county in which the person was convicted of the subsequent sexually violent offense. The county board of supervisors shall designate either the district attorney or the county counsel to assume responsibility for proceedings under this article.

(j) An order issued by a judge pursuant to Section 6601.5, finding that the petition, on its face, supports a finding of probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon release, shall toll that person's parole pursuant to paragraph (4) of subdivision (a) of Section 3000 of the Penal Code, if that individual is determined to be a sexually violent predator.

(k) The attorney designated by the county pursuant to subdivision (i) shall notify the State Department of State Hospitals of its decision regarding the filing of a petition for commitment pursuant to subdivision (d) within 15 days of making that decision.

**SEC. 3.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.