

# Office of the State Public Defender

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## Changes Related to Placement, Transfer or Travel of Individuals on Parole / PRCS **SB 990**

(Amends Penal Code §3003)

Under existing law, a person released from prison on Parole or PRCS are overwhelmingly returned to the county of their last legal residence. They serve out time on parole in that same county, with few options for relocation out-of-county.

Beginning January 1, 2024, persons released from prison will have relocation options based on educational, treatment, housing or employment opportunities. These new rules will also apply to anyone already on Parole. These new rules *probably* apply to anyone released or already on postrelease community supervision (PRCS). Senate Bill 990 and Pen. Code §3003(c)(5) “strongly encourages” these rules to apply to people released on PRCS. As this law has not yet taken effect, whether these rules will actually apply to PRCS is unknown. This reference sheet is written as if these rules *will* apply to PRCS.

### **How to be Released “Out-of-County”**

As of January 1, 2024, a person being released on Parole or PRCS **will be released out-of-county** (to some county other than the county of their last legal residence) if there is an existence of any of the following<sup>1</sup>:

- Post-secondary educational program (must be verified)
- Vocational training program (must be verified)
- A work offer (must be verified)
- A person’s family
- Outpatient treatment
- Housing

Out-of-county placement could still be denied if there is evidence that it would present a threat to public safety. Priority is given to the safety of the community, any witness or victim.<sup>2</sup>

The burden of proving verification of an educational, vocational, or work opportunity is on the person being released.<sup>3</sup>

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<sup>1</sup> Penal Code §3003(c)(2).

<sup>2</sup> Penal Code §3003(c)(1).

<sup>3</sup> Penal Code §3003(c)(2).

If a person is required to participate in a transitional housing program during their first year of release by the Board of Parole Hearings, that housing will take priority.

### **How to Transfer Parole / PRCS to Another County**

As of January 1, 2024, a person applying to transfer Parole or PRCS to another county **will be allowed to transfer** for any of the following reasons<sup>4</sup>:

- Post-secondary educational program (must be verified)
- Vocational training program (must be verified)
- A work offer (must be verified)
- A person's family
- Inpatient treatment
- Outpatient treatment
- Housing

Transfer could still be denied if there is evidence that it would present a threat to public safety. Priority is given to the safety of the community, any witness or victim.<sup>5</sup>

The burden of proving verification of an educational, vocational, or work opportunity is on the person seeking transfer.<sup>6</sup>

The paroling authority must give a written response within 14 days of receiving a request. If the request is **denied**, the reason must be in writing and must explain why the transfer would present a threat to public safety.

### **How to Request Travel Out-of-County While on Parole / PRCS**

As of January 1, 2024, a person's request to travel out-of-county while on Parole or PRCS **will be granted** for any of the following reasons<sup>7</sup>:

- Post-secondary educational program opportunity (including classes, conference, extracurricular educational activities)
- Vocational training program opportunity (including classes, conference, extracurricular educational activities)
- An employment opportunity
- Inpatient or outpatient treatment

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<sup>4</sup> Penal Code §3003(c)(4).

<sup>5</sup> Penal Code §3003(c)(1).

<sup>6</sup> Penal Code §3003(c)(2).

<sup>7</sup> Penal Code §3003(c)(3).

A travel permit could still be denied if there is evidence that it would present a threat to public safety. Priority must be given to the safety of the community, any witness or victim.<sup>8</sup> The paroling authority must provide a written response within 14 days of receiving a request. If the request is **denied**, the reason must be in writing and must explain why the travel would present a threat to public safety.

### **Continuing to Work for a Joint Venture Program Employer After Release**

As of January 1, 2024, anyone who had a prison job working for a joint venture program and receives an employment offer upon release **will be placed** on Parole or PRCS to the county where the joint venture program employer is located.<sup>9</sup>

### **Other Limitations on Parole / PRCS Placement That Apply as of 1/1/2024**

If a victim or witness has specifically requested additional Parole or PRCS distance and the paroling authority finds that there is a need to protect the life, safety or well-being of that victim or witness, the following restrictions will apply:

- Persons convicted of a “violent felony”<sup>10</sup>, inflicting great bodily injury<sup>11</sup>, - or - a sexual act using force<sup>12</sup> cannot be placed within 35 miles of the actual residence of the victim or witness<sup>13</sup>
- Persons conviction of stalking cannot be placed within 35 miles of the actual residence or place of employment of the victim or witness<sup>14</sup>

A person cannot be placed on Parole or PRCS to a location within half a mile of a school (kindergarten through 12<sup>th</sup> grade) if their conviction is for Pen. Code §§288 or 288.5 and the paroling authority determines they pose a high risk to the public.<sup>15</sup>

The paroling authority must also consider “equitable distribution” of individuals on Parole and PRCS when making parole decisions.<sup>16</sup>

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<sup>8</sup> Penal Code §3003(c)(1).

<sup>9</sup> Penal Code §3003(d).

<sup>10</sup> Penal Code §667.5(c)(1)-(7), (11) & (16).

<sup>11</sup> Penal Code §§12022.53, 12022.7 or 12022.9.

<sup>12</sup> Penal Code §§261(a)(1) & (3)-(4); 286(f)-(g) & (i); 287(f)-(g) & (i); 288a; 289(b)-(e).

<sup>13</sup> Penal Code §3003(f).

<sup>14</sup> Penal Code §3003(h).

<sup>15</sup> Penal Code §3003(g).

<sup>16</sup> Penal Code §3003(i).

## **FREQUENTLY ASKED QUESTIONS**

*The following is not legal advice. It is your responsibility to do legal research or contact a lawyer if you need legal advice.*

**Q: Does my request to be placed out-of-county, transfer Parole / PRCS or to travel out-of-county need to be in writing?**

A: No. The request can be made verbally or in writing. However, if you put your request in a dated letter, and make a copy, you will have documented proof that you made a request to the paroling authority.

**Q: If my request to be placed out-of-county, transfer Parole / PRCS or travel out-of-county is denied, is there anything I can do?**

A: Yes. If you have made a verbal or written request and that request was denied, you can file an administrative appeal within 60 days. Use CDCR Form 602.

**Q: What do I need to have to prove verification of an educational, vocational, or work opportunity?**

A: Pen. Code §3003 does not state what proof is required to verify an educational, vocational or work opportunity. Common sense suggests that you will need something in writing, on official letterhead, like a written job offer or a letter of acceptance to a college / university / vocational school.

**Q: Does SB990 and Pen. Code §3003 change anything about placement, transfer or travel out-of-state?**

A: No. Nothing about this new law affects the policies and procedures for requesting Parole or PRCS in another state.

**Q: What factors will the paroling authority consider when I request out-of-county placement, transfer for travel?**

A: The law requires the paroling authority to give the greatest weight to protection of the victim and community safety. Other factors considered include:

- Verified existence of a work offer
- Verified existence of your chosen educational or vocational program
- Existence of family that you have maintained strong ties with and whose support will increase your chance of being successful on parole

**This document does not constitute legal advice and is general information.**

- Lack of necessary outpatient treatment programs in the county of your last legal residence
- Existence of a housing option, including with a relative or acceptance into a transitional housing program of your choice

There can be other factors for the paroling authority to consider beyond this list. If you have a compelling reason based on employment / vocational / educational opportunity, treatment for substance abuse or mental health, family ties, or something else that will improve your chances of being successful on parole, you should state that reason in your verbal or written request for placement, transfer or travel out-of-county.

## **TEXT OF PENAL CODE §3003**

(As of January 1, 2024)

(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 the inmate's 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 the inmate has family, social ties, or economic ties and access to reentry services, unless return to that location would violate any other law or pose a risk to the inmate's 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.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county or city if that would be in the best interests of the public. If the Board of Parole Hearings imposing conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, as determined by the parole consideration panel, or the Department of Corrections and Rehabilitation setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county or city, it shall place its reasons in writing in the parolee's permanent record and include these reasons in the notice to the sheriff or chief of police pursuant to Section 3058.6. 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:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program chosen by the inmate in another county.

(4) 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.

(5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960 in the county of last legal residence.

(6) The existence of a housing option in another county, including with a relative or acceptance into a transitional housing program of choice.

(c) (1) The Department of Corrections and Rehabilitation, in determining an out-of-county commitment pursuant to this section, shall give priority to the safety of the community and any witnesses and victims.

(2) Absent evidence that parole transfer would present a threat to public safety, the inmate shall be released to the county in the location of a verified existence of a postsecondary educational or vocational training program of the inmate's choice, or of a verified existence of a work offer, the inmate's family, outpatient treatment, or housing. The burden of verifying the existence of an

educational or vocational training program or a work offer shall be on the person on parole. The Department of Corrections and Rehabilitation shall complete the parole transfer process prior to release and ensure the person is released from prison directly to the county where the postsecondary educational or vocational training program chosen by the inmate, or the work offer, the inmate's family, outpatient treatment, or housing is located. This paragraph shall not apply to placement and participation in a transitional housing program during the first year after release pursuant to a condition of parole imposed by the Board of Parole Hearings upon granting parole at a hearing conducted under Article 3 (commencing with Section 3040).

(3) Absent evidence that travel outside of the county of commitment would present a threat to public safety, a person on parole shall be granted a permit to travel outside the county of commitment to a location where the person has postsecondary educational or vocational training program opportunities, including classes, conferences, or extracurricular educational activities, an employment opportunity, or inpatient or outpatient treatment. A parole agent shall provide a written response of their decision within 14 days after receiving the request for a travel permit. If the parole agent denies the request for an out-of-county travel permit, they shall include in writing the reasons the travel would present a threat to public safety.

(4) Absent evidence that transfer to a county outside the county of commitment would present a threat to public safety, a person on parole shall be granted approval of an application to transfer residency and parole to another county where the person has a verified existence of a postsecondary educational or vocational training program chosen by the inmate, or a verified existence of a work offer, the person's family, inpatient or outpatient treatment, or housing. The burden of verifying the existence of an educational or vocational training program or a work offer shall be on the person on parole. A parole agent shall provide a written response of their decision within 14 days after receiving the request for the transfer application. If the parole agent denies the application for a transfer of parole to another county, they shall include in writing the reasons the transfer would present a threat to public safety. This paragraph shall not apply to placement and participation in a transitional housing program during the first year after release pursuant to a condition of parole imposed by the Board of Parole Hearings upon granting parole at a hearing conducted under Article 3 (commencing with Section 3040).

(5) The department and probation officers may extend paragraphs (2) through (4), inclusive, to individuals released on postrelease community supervision. The Legislature finds and declares that the department and probation officers are strongly encouraged to apply this paragraph to individuals released on postrelease community supervision.

(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall release the inmate to the county where the joint venture program employer is located if that employer states to the paroling authority that the employer intends to employ the inmate upon release.

(e) (1) The following information, if available, shall be released by the Department of Corrections and Rehabilitation to local law enforcement agencies regarding a paroled inmate or inmate placed on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) who is released in their jurisdictions:

(A) Last, first, and middle names.

(B) Birth date.

(C) Sex, race, height, weight, and hair and eye color.

- (D) Date of parole or placement on postrelease community supervision and discharge.
- (E) Registration status, if the inmate is required to register as a result of a controlled substance, sex, or arson offense.
- (F) California Criminal Information Number, FBI number, social security number, and driver's license number.
- (G) County of commitment.
- (H) A description of scars, marks, and tattoos on the inmate.
- (I) Offense or offenses for which the inmate was convicted that resulted in parole or postrelease community supervision in this instance.
- (J) Address, including all of the following information:
- (i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.
  - (ii) City and ZIP Code.
  - (iii) Date that the address provided pursuant to this subparagraph was proposed to be effective.
- (K) Contact officer and unit, including all of the following information:
- (i) Name and telephone number of each contact officer.
  - (ii) Contact unit type of each contact officer such as units responsible for parole, registration, or county probation.
- (L) A digitized image of the photograph and at least a single digit fingerprint of the parolee.
- (M) A geographic coordinate for the inmate's residence location for use with a Geographical Information System (GIS) or comparable computer program.
- (2) Unless the information is unavailable, the Department of Corrections and Rehabilitation shall electronically transmit to the county agency identified in subdivision (a) of Section 3451 the inmate's tuberculosis status, specific medical, mental health, and outpatient clinic needs, and any medical concerns or disabilities for the county to consider as the offender transitions onto postrelease community supervision pursuant to Section 3450, for the purpose of identifying the medical and mental health needs of the individual. All transmissions to the county agency shall be in compliance with applicable provisions of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191), the federal Health Information Technology for Economic and Clinical Health Act (HITECH) (Public Law 111-005), and the implementing of privacy and security regulations in Parts 160 and 164 of Title 45 of the Code of Federal Regulations. This paragraph shall not take effect until the Secretary of the United States Department of Health and Human Services, or the secretary's designee, determines that this provision is not preempted by HIPAA.
- (3) Except for the information required by paragraph (2), the information required by this subdivision shall come from the statewide parolee database. The information obtained from each source shall be based on the same timeframe.



(4) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be continually available to local law enforcement agencies upon request.

(5) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.

(f) Notwithstanding any other law, if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Parole Hearings or the Department of Corrections and Rehabilitation finds that there is a need to protect the life, safety, or well-being of the victim or witness, 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, any of the following crimes:

(1) A violent felony as defined in paragraphs (1) to (7), inclusive, and paragraphs (11) and (16) of subdivision (c) of Section 667.5.

(2) A felony in which the defendant inflicts great bodily injury on a person, other than an accomplice, that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9.

(3) A violation of paragraph (1), (3), or (4) of subdivision (a) of Section 261, subdivision (f), (g), or (i) of Section 286, subdivision (f), (g), or (i) of Section 287 or of former Section 288a, or subdivision (b), (d), or (e) of Section 289.

(g) Notwithstanding any other law, an inmate who is released on parole for a violation of Section 288 or 288.5 whom the Department of Corrections and Rehabilitation determines poses a high risk to the public shall not be placed or reside, for the duration of the inmate's parole, within one-half mile of a public or private school including any or all of kindergarten and grades 1 to 12, inclusive.

(h) Notwithstanding any other law, an inmate who is released on parole or postrelease community supervision for a stalking offense shall not be returned to a location within 35 miles of the victim's or witness' actual residence or place of employment if the victim or witness has requested additional distance in the placement of the inmate on parole or postrelease community supervision, and if the Board of Parole Hearings or the Department of Corrections and Rehabilitation, or the supervising county agency, as applicable, finds that there is a need to protect the life, safety, or well-being of the victim. If an inmate who is released on postrelease community supervision cannot be placed in the inmate's county of last legal residence in compliance with this subdivision, the supervising county agency may transfer the inmate to another county upon approval of the receiving county.

(i) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county compared to the number of commitments from that county when making parole decisions.

(j) An inmate may be paroled to another state pursuant to any other law. The Department of Corrections and Rehabilitation shall coordinate with local entities regarding the placement of inmates placed out of state on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450).

(k) (1) Except as provided in paragraph (2), the Department of Corrections and Rehabilitation shall be the agency primarily responsible for, and shall have control over, the program, resources, and staff implementing the Law Enforcement Automated Data System (LEADS) in conformance with subdivision (e). County agencies supervising inmates released to postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) shall provide any information requested by the department

to ensure the availability of accurate information regarding inmates released from state prison. This information may include the issuance of warrants, revocations, or the termination of postrelease community supervision. On or before August 1, 2011, county agencies designated to supervise inmates released to postrelease community supervision shall notify the department that the county agencies have been designated as the local entity responsible for providing that supervision.

(2) Notwithstanding paragraph (1), the Department of Justice shall be the agency primarily responsible for the proper release of information under LEADS that relates to fingerprint cards.

(l) In addition to the requirements under subdivision (k), the Department of Corrections and Rehabilitation shall submit to the Department of Justice data to be included in the supervised release file of the California Law Enforcement Telecommunications System (CLETS) so that law enforcement can be advised through CLETS of all persons on postrelease community supervision and the county agency designated to provide supervision. The data required by this subdivision shall be provided via electronic transfer.

(m) This section shall become operative on January 1, 2024.