

Date of Hearing: April 22, 2025  
Chief Counsel: Andrew Ironside

**ASSEMBLY COMMITTEE ON PUBLIC SAFETY**  
Nick Schultz, Chair

AB 47 (Nguyen) – As Introduced December 2, 2024

**As Proposed to be Amended in Committee**

**SUMMARY:** Provides that a person sentenced for a one-strike sex offense or as a habitual sex offender is ineligible for elderly parole until the person is 60 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence.

**EXISTING LAW:**

- 1) Establishes the Elderly Parole Program, to be administered by the Board of Parole Hearings (BPH), for purposes of reviewing the parole suitability of any inmate who is 50 years of age or older and has served a minimum of 20 years of continuous incarceration on the inmate's current sentence, serving either a determinate or indeterminate sentence. (Pen. Code, § 3055, subd. (a).)
- 2) Requires BPH, when considering the release of an inmate, as specified, to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence. (Pen. Code, § 3055, subd. (c).)
- 3) Requires BPH, when scheduling a parole consideration hearing date or when considering a request for an advance hearing, as specified, to consider whether the inmate meets or will meet the age and time-served criteria. (Pen. Code, § 3055, subd. (d).)
- 4) States that an individual who is subject to this section shall meet with BPH pursuant to subdivision (a) of Section 3041. (Pen. Code, § 3055, subd. (e).)
- 5) Requires BPH, if an inmate is found suitable for parole under the Elderly Parole Program, to release the individual on parole, as specified. (Pen. Code, § 3055, subd. (e).)
- 6) Requires BPH, if parole is not granted, to set the time for a subsequent elderly parole hearing, as specified, and provides that no subsequent elderly parole hearing shall be necessary if the offender is released pursuant to other statutory provisions prior to the date of the subsequent hearing. (Pen. Code, § 3055, subd. (f).)
- 7) Provides the following exceptions to the Elderly Parole Program:
  - a) Persons who had a prior conviction for a serious or violent felony;
  - b) Persons who were sentenced to life in prison without the possibility of parole or death; or,

- c) Persons convicted of first-degree murder of a peace officer, as defined, who was killed while engaged in the performance of their duties, and the individual knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of their duties, or the victim was a peace officer or a former peace officer and was intentionally killed in retaliation for the performance of their official duties. (Pen. Code, § 3055, subd. (g) & (h).)
- 8) Provides that the provisions of the Elderly Parole Program do not alter the rights of victims at parole hearings. (Pen. Code, § 3055, subd. (i).)
- 9) Required BPH, by December 31, 2022, to complete all elderly parole hearings for individuals who were sentenced to determinate or indeterminate terms and who, on the effective date of the bill that added this subdivision, are or will be entitled to have their parole suitability considered at an elderly parole hearing before January 1, 2023. (Pen. Code, § 3055, subd. (j).)
- 10) Defines “elderly parole eligible date” as the date on which an inmate who qualifies as an elderly offender is eligible for release from prison. (Pen. Code, § 3055, subd. (b)(1).)
- 11) Provides that one year before the inmate’s minimum eligible parole date a panel of two or more commissioners or deputy commissioners shall again meet with the inmate and shall normally grant parole, as specified. (Pen. Code, § 3041, subd. (a)(2).)
- 12) Provides that, upon a grant of parole, the inmate shall be released subject to all applicable review periods, except an inmate shall not be released before reaching his or her minimum eligible parole date, as specified, unless the inmate is eligible for earlier release under their youth offender parole eligibility date or elderly parole eligibility date. (Pen. Code, § 3041, subd. (a)(4).)
- 13) Requires BPH to grant parole to an inmate 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. (Pen. Code, § 3041, subd. (b)(1).)
- 14) Provides, under the One Strike Sex Offense statute, for a mandatory sentence of 15-years-to-life or 25-years-to-life if a person is convicted of one of the several specified felony sex offenses under one or more circumstances, as provided. (Pen. Code, § 667.61, subds. (b)-(e).)
- 15) Provides that a habitual sexual offender is a person who has previously been convicted of one or more of the following offenses and who is convicted in the present proceeding of one of these offenses:
  - a) Rape by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury, or threat to retaliate in the future;
  - b) Rape of a spouse by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury, or threat to retaliate in the future;

- c) Rape or sexual penetration, in concert;
  - d) Lewd or lascivious act on a child under 14, and lewd or lascivious act on a child under 14 by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury;
  - e) Sexual penetration, by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury or sexual penetration of a person who is under 14 years of age and who is more than 10 years younger;
  - f) Continuous sexual abuse of a child;
  - g) Sodomy of a person who is under 14 years of age and more than 10 years younger, or in concert;
  - h) Oral copulation of a person who is under 14 years of age and more than 10 years younger, or in concert;
  - i) Kidnapping with intent to commit a lewd and lascivious act on a child under 14;
  - j) Kidnapping to commit specified sex offenses;
  - k) Kidnapping with intent to commit rape, oral copulation, sodomy, or other specified sex offense;
  - l) Aggravated sexual assault of a child; or,
  - m) An offense committed in another jurisdiction that includes all of the elements of one of the above offenses. (Pen. Code, § 667.71, subds. (a), (c).)
- 16) Provides that a habitual sexual offender shall be punished by imprisonment in the state prison for 25-years-to-life. (Pen. Code, § 667.71, subd. (b).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, “AB 47 is about restoring integrity to our justice system and protecting victims. I introduced this bill because people convicted of rape, child molestation, or other violent crimes should never be eligible for early release just because they’ve turned 50. That’s not justice — it’s re-traumatizing survivors. Throughout my career — whether in local government or authoring legislation to combat human trafficking — I’ve worked to ensure victims aren’t forgotten. And as the wife of a police officer, I’ve seen firsthand how these crimes devastate families and communities. AB 47 draws a clear line: some crimes are simply too severe for second chances.”
- 2) **Elderly Parole Program:** As the result of severe prison overcrowding, the Three-Judge Court ordered CDCR to implement several population reduction measures, including to

“[f]inalize and implement a new parole process whereby inmates who are 60 years of age or older and have served a minimum of twenty-five years of their sentence will be referred to the Board of Parole Hearings to determine suitability for parole.” (February 10, 2014 Order, 2:90-cv-0520 LKK DAD PC, 3-Judge Court, *Coleman v. Brown*, *Plata v. Brown*) In response to the order, BPH created the Elderly Parole Program and began holding elderly parole hearings on October 1, 2014. Inmates with determinate terms as well as those sentenced to life with the possibility of parole are eligible for the program. (<https://www.cdcr.ca.gov/bph/elderly-parole-hearings-overview/>) Inmates who are sentenced to life without the possibility of parole, or who are sentenced to death are not eligible for the program. (*Id.*)

AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program. However, AB 1448 narrowed the eligibility criteria by excluding individuals who were sentenced pursuant to “Three Strikes” or who were convicted of first-degree murder of a peace officer from the Elderly Parole Program. (Pen. Code, § 3055, subs. (g) & (h).) AB 3234 (Ting), Chapter 334, Statutes of 2020, expanded the eligibility criteria for elderly parole. Specifically, AB 334 lowered the minimum age at which an incarcerated individual is eligible for elderly parole from 60 to 50 and the amount of time that must be served from 25 years to 20 years. Incarcerated individuals who meet the eligibility criteria of the court-ordered Elderly Parole Program but who are excluded from the statutory Elderly Parole Program are eligible for elderly parole consideration under the court-ordered program. (BPH, *Elderly Parole Fact Sheet* (Mar. 2022), p. 1 available at <[https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2022/03/Elderly-Parole-Fact-Sheet3\\_18-1.pdf](https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2022/03/Elderly-Parole-Fact-Sheet3_18-1.pdf)>.)

- 3) **Analogous Provision in Youth Offender Parole Statute Pertaining to One-Strike Sex Offenses:** Proponents of this bill argue that One Strike sex offenses should be excluded from Elderly Parole eligibility, in part to align the elderly parole process with the youth offender parole process as codified in Penal Code section 3051. Penal Code section 3051 generally provides that an individual who was 25 years of age or younger at the time of his or her controlling offense, or under 18 years of age if the person was sentenced to life without the possibility of parole, is eligible for release on parole at the 15th, 20th, or 25th year of incarceration depending on the sentence imposed. As is the case with the Elderly Parole Program, the youth offender parole process affords some incarcerated individuals an opportunity to parole at an earlier date than would otherwise be the case. Both parole processes also require the BPH to consider additional factors when making a parole suitability determination.

Both the elderly parole statute and youth offender parole statute contain categorical exclusions. Subdivisions (g) and (h) of Penal Code section 3055 exclude from elderly parole eligibility a person sentenced under the Three Strikes law, a person sentenced to death or life in prison without the possibility of parole, and a person convicted of the first-degree murder of a peace officer. Subdivision (h) of Penal Code section 3051 excludes from youth offender parole eligibility, a person sentenced under the Three Strikes law, under the One Strike law, or to life without the possibility of parole for an offense committed after the person turned 18.

The exclusion of One Strike sex offenses from youth offender parole eligibility was challenged on Equal Protection grounds. (See *People v. Edwards* (2019) 34 Cal.App.5th 183; *People v. Williams* (2020) 47 Cal.App.5th 475.) After the two appellate courts reached

different conclusions regarding the constitutionality of this exclusion, the California Supreme Court granted the *Williams* appellant's petition for review in 2020.

In its 2024 decision, the Court upheld the exclusion of One Strike sex offenses from youth offender parole eligibility finding that there was no equal protection violation. (*People v. Williams* (2024) 17 Cal.5th 99.) Applying the rational basis standard, the Court found:

The Legislature could rationally conclude, based on its view that a One Strike sex offender's risk of recidivism is high, that rehabilitation is unlikely, and therefore these offenders would not likely be eligible for parole, much less early parole under section 3051. With this understanding, the Legislature crafted section 3051(h), balancing a young adult's capacity for growth and rehabilitation against the set of concerns that had prompted the enactment and amendment of the One Strike law and ultimately deciding that those concerns militate against offering the possibility of early parole under section 3051. (Internal citations omitted.) (*Id.* at p. 130.)

- 4) **Effect of this Bill:** This bill limits the eligibility criteria for the Elderly Parole Program requiring individuals sentenced pursuant to Penal Code sections 667.61 and 667.71—the One Strike Sex Offense statute or habitual sex offender statute—to be 60 years old or older and to have served at least 25 years of continuous incarceration on their current sentence.

It is worth noting that some incarcerated individuals who are currently eligible for elderly parole were already in the parole suitability hearing cycle based on their original minimum eligible parole date (MEPD). The parole eligibility of these individuals is not based on their inclusion in the Elderly Parole Program as their sentences have always permitted an opportunity for parole. Similarly, there are incarcerated individuals who are eligible for parole but not yet in the parole suitability hearing cycle because they have not reached their MEPD. Irrespective of inclusion in the Elderly Parole Program, these individuals will have an opportunity for parole once they have reached their MEPD. This means that even if certain categories of offenders are excluded from the Elderly Parole Program, the incarcerated individual will have parole hearings upon reaching their MEPD if the person otherwise has a sentence that permits parole (i.e., a sentence other than life without the possibility of parole or death).

Inclusion in the Elderly Parole Program may affect when an incarcerated individual has their initial parole hearing. However, inclusion in the Elderly Parole Program does not mean that an incarcerated individual will automatically be released from prison solely because the person meets the eligibility criteria for the program.

- 5) **Overview of the Parole Process:** This bill would delay the time persons convicted of one-strike sex offenses or convicted as a habitual sex offender are eligible for elderly parole. Notably, a person eligible for elderly parole does not mean they are suitable for parole, but rather that they are eligible for a hearing to determine their suitability.

BPH is required to hold a hearing on a person's suitability for parole one year before the person's MEPD to determine if the person should be released from prison. (Pen. Code, § 3041, subd. (a)(2).) Existing law requires BPH to grant parole 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. (Pen. Code, § 3041, subd. (b)(1).) The Elderly Parole Program requires BPH “to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate’s risk for future violence, when considering the release of an inmate.” (Pen. Code, § 3055, subd. (c).) BPH can consider all relevant, reliable information available. (15 Cal. Code Regs., tit. 15, § 2281, subd. (b).) Factors showing unsuitability include, among others, whether the person abused their victim during the offense or the offense was exceptionally cruel or callous; and, whether the person has an unstable social history, committed a sadistic sexual offense, demonstrates a lack of remorse, or has engaged in serious misconduct while incarcerated. (15 Cal. Code Regs., tit. 15, § 2281, subd. (c).) However, regardless of the length of time served, a person must be found unsuitable for and denied parole if BPH determines that the person poses an unreasonable risk of danger to society if released from prison. (Cal. Code Regs., tit. 15, § 2281, subd. (a).)

Existing law also requires a person convicted of sexually violent offense and up for parole to undergo a comprehensive risk assessment for sexual offenders. (Pen. Code, § 3053.9.) The risk assessment is conducted by licensed psychologist employed by BPH who consider factors impacting the person’s risk of violence. (*Ibid.*)

Even if found suitable for parole, a person released from custody is still subject to supervision. Persons who are eligible for release under this bill are subject to parole supervision for at least 10 years, and could even receive lifetime parole under certain circumstances. (Pen. Code, §§ 3000, subd. (b)(3); 3001.01, subd. (d)(1); 3000.1, subd. (a)(2).) Existing law requires BPH, within 10 days following any decision granting parole, to send the inmate a written statement setting forth the reason or reasons for granting parole, the conditions the person must meet in order to be released, and the consequences of failure to meet those conditions. (Pen. Code, § 3041.5, subd. (b)(1).) Existing law provides that the parole agency can impose additional and appropriate conditions of supervision if the person violated a parole condition. (Pen. Code, § 3000.08, subd. (d).) Failure to comply with the conditions of parole could result in parole revocation and return to custody. (Pen. Code, § 3000.08, subd. (f)(1).)

- 6) **Argument in Support:** According to the *Office of the District Attorney of Orange County*, the bill’s sponsor: “California’s parole laws provide opportunities for parole consideration based on age and the length of incarceration. Specifically, Elder Parole allows for parole consideration for individuals who have served at least 20 years of incarceration and are at least 50 years old. This process does not address the elevated recidivism risk posed by sex offenders, particularly those who have committed severe crimes including child sexual assault or violent sexual offenses. Research has consistently shown that, even in their later years, sex offenders are more likely to reoffend than individuals convicted of other crimes. These high-risk individuals pose a significant threat to public safety, including to vulnerable populations such as minors and those who have been previously victimized.

“The California Supreme Court, in the case of *People v. Williams* (2024), affirmed the exclusion of One Strike offenders from Youthful Offender Parole under PC 3051, recognizing the increased risk to public safety that these offenders represent. Given the gravity of their crimes, it is crucial that such individuals remain incarcerated for their full term and are not granted early parole consideration that could jeopardize community safety.

“AB 47 is a sensible step toward ensuring that individuals convicted of particularly violent or predatory sexual offenses are not prematurely released into society, where they may reoffend and inflict further harm. The bill maintains the integrity of California’s parole system by ensuring that individuals who have been convicted of heinous crimes are not excluded from long-term accountability, and that victims’ voices are respected in the parole process.”

- 7) **Argument in Opposition:** According to the *San Francisco Public Defender’s Office*, “In 2014, the court in the *Plata* and *Coleman* class action lawsuits mandated that the state create a geriatric parole consideration process, recognizing that elderly people are the safest to release while posing the highest financial burden given their medical needs. The Legislature agreed with this assessment and codified the program in 2018, and later modified the criteria in 2021 so that people aged 50 or older who have served at least 20 years of incarceration are eligible (while keeping in place exclusions for those sentenced to LWOP, death, under the Three Strikes Law, and for first-degree murder of a peace officer).

“This bill is unnecessary for many reasons, the first being that the Legislature thoroughly reassessed the program’s eligibility criteria in 2021 and determined it was unnecessary to public safety to create new exclusions. **This is due to the exceptionally low risk posed by people currently eligible for the Elderly Parole program.** One study found that recidivism rates drop to just 2% for people ages 50 to 65, and nearly zero for those older than 65. While recidivism risk decreases with age, the cost of incarcerating older individuals rises significantly. For example, healthcare costs for elderly incarcerated people are up to nine times higher than for younger people. This amounts to an enormous financial burden in California, where it costs on average \$133,000 annually to incarcerate a single person. In addition, the recidivism rate for people released through California’s parole hearing process—regardless of conviction—is just 2.2%, and only 0.2% for violent felonies.<sup>3</sup> The 3-year recidivism rate for people released through California’s Elderly Parole hearing process is just as low, at 2.4%. Data also contradicts the notion embedded in this bill that people convicted of sexual offenses pose a higher risk upon release. In fact, CDCR’s own recidivism research shows that the three-year conviction rate for sex registrants is significantly lower than non-sex registrants.

**“Finally, multiple rigorous safeguards are already in place within the Elderly Parole program.** Eligibility does not guarantee release; it merely allows the parole board to conduct a comprehensive hearing to determine if an individual can be safely released on parole supervision. If granted parole, the decision is further reviewed by the Board’s legal division and the Governor’s office. However, most Elderly Parole hearings don’t even get that far—between 2021 and 2023, only 16.6% of Elderly Parole hearings resulted in a parole grant, with just 10% of first-time Elderly Parole hearings leading to a grant. For elderly people who are granted and released, they are placed on mandated parole supervision with both general and individualized supervision requirements. The supervision requirements are extremely stringent for those with sex offenses, including mandatory sex offense treatment in the community. Furthermore, the Board of Parole Hearings thoroughly screens people with violent and sexual offenses before authorizing their release on parole, referring cases as needed to the Department of State Hospitals for further evaluation, after which civil commitment to receive treatment can be mandated. The Elderly Parole program as it currently exists is extremely conservative and poses no public safety issue that warrants legislative modification.

“In conclusion, AB 47 would result in more elderly individuals serving excessively long sentences despite their readiness for supervised release, leading to wasted resources that could be better utilized for other purposes, including vital social service programs. We urge you to oppose this bill in favor of policies that promote rehabilitation, public safety, and fiscal responsibility.”

**8) Related Legislation:**

- a) SB 286 (Jones) would exclude from Elderly Parole eligibility individuals convicted of murder or specified felony sex offenses, or sentenced as a habitual sex offender or under the One Strike Sex Offense statute. SB 286 is pending a hearing in the Senate Appropriations Committee.
- b) SB 537 (Archuleta) excludes a person sentenced to first- or second-degree murder with a maximum term of life imprisonment from the required 3-year parole period applicable to any person released from state prison on or after July 1, 2020. SB 537 is scheduled for hearing today in the Senate Public Safety Committee.

**9) Prior Legislation:**

- a) SB 445 (Jones), of the 2021-2022 Legislative Session, would have excluded “One Strike” sex offenses from the Elderly Parole Program. SB 445 failed passage in the Senate Public Safety Committee.
- b) AB 3234 (Ting), Chapter 334, Statutes of 2020, lowered the minimum age limitation for the Elderly Parole Program to inmates who are 50 years of age and who have served a minimum of 20 years.
- c) SB 411 (Jones), of the 2019-2020 Legislative Session, was nearly identical to SB 445 above. SB 411 did not receive a hearing in the Senate Public Safety Committee.
- d) AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program, to be administered by the Board of Parole Hearings.
- e) SB 224 (Liu), of the 2015-2016 Legislative Session, was substantially similar to AB 1448 above. SB 224 was ordered to the Inactive File on the Senate Floor.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Arcadia Police Officers' Association  
Brea Police Association  
Burbank Police Officers' Association  
California Association of School Police Chiefs  
California Coalition of School Safety Professionals  
California Narcotic Officers' Association  
California Police Chiefs Association

California Reserve Peace Officers Association  
California State Sheriffs' Association  
Claremont Police Officers Association  
Corona Police Officers Association  
County of Orange, Through its Office of the District Attorney/public Administrator  
Crime Victims United of California  
Culver City Police Officers' Association  
Fullerton Police Officers' Association  
Los Angeles School Police Management Association  
Los Angeles School Police Officers Association  
Murrieta Police Officers' Association  
Newport Beach Police Association  
Palos Verdes Police Officers Association  
Peace Officers Research Association of California (PORAC)  
Placer County Deputy Sheriffs' Association  
Placer County District Attorney's Office  
Pomona Police Officers' Association  
Riverside County District Attorney  
Riverside Police Officers Association  
Riverside Sheriffs' Association  
San Diego County District Attorney's Office  
Santa Ana Police Officers Association

**Oppose**

ACLU California Action  
Alliance for Constitutional Sex Offense Laws  
California Coalition for Women Prisoners  
California Public Defenders Association (CPDA)  
Californians United for a Responsible Budget  
Communities United for Restorative Youth Justice (CURYJ)  
Ella Baker Center for Human Rights  
Fair Chance Project  
Felony Murder Elimination Project  
Humane Prison Hospice Project  
Initiate Justice  
Initiate Justice Action  
LA Defensa  
Local 148 LA County Public Defenders Union  
Post-conviction Justice Project  
Prison Law Office  
Prison Yoga Project  
San Francisco Public Defender  
Silicon Valley De-bug  
Smart Justice California, a Project of Tides Advocacy  
Uncommon Law  
Universidad Popular

3 Private Individuals

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