



General Assembly

Amendment

January Session, 2015

LCO No. 8756



Offered by:

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To: Subst. Senate Bill No. 1109

File No. 758

Cal. No. 368

"AN ACT CONCERNING EXCESSIVE USE OF FORCE."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 54-124a of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2015*):

5 (a) There shall be a Board of Pardons and Paroles within the
6 Department of Correction, for administrative purposes only. On and
7 after July 1, 2008, and prior to July 1, 2010, the board shall consist of
8 eighteen members, and on and after July 1, 2010, the board shall
9 consist of twenty members. The Governor shall appoint all members of
10 the board with the advice and consent of both houses of the General
11 Assembly. On and after July 1, 2008, twelve of the members shall serve
12 exclusively on parole release panels, five of the members shall serve
13 exclusively on pardons panels and the chairperson may serve on both

14 parole release panels and pardons panels, except that on and after July
15 1, 2010, seven of the members shall serve exclusively on pardons
16 panels. In the appointment of the members, the Governor shall specify
17 the member being appointed as chairperson, the full-time and part-
18 time members being appointed to serve on parole release panels and
19 the members being appointed to serve on pardons panels. In the
20 appointment of the members, the Governor shall comply with the
21 provisions of section 4-9b. The Governor shall appoint a chairperson
22 from among the membership. The members of the board appointed on
23 or after February 1, 2008, shall be qualified by education, experience or
24 training in the administration of community corrections, parole or
25 pardons, criminal justice, criminology, the evaluation or supervision of
26 offenders or the provision of mental health services to offenders. Each
27 appointment of a member of the board submitted by the Governor to
28 the General Assembly shall be referred, without debate, to the
29 committee on the judiciary which shall report thereon not later than
30 thirty legislative days after the date of reference.

31 (b) The term of each appointed member of the board serving on
32 June 30, 2008, who had been assigned by the chairperson exclusively to
33 parole hearings, shall expire on said date. The term of each member of
34 the board serving on June 30, 2008, who had been appointed
35 chairperson, had been assigned by the chairperson exclusively to
36 pardons hearings or has been appointed by the Governor on or after
37 February 1, 2008, shall be coterminous with the term of the Governor
38 or until a successor is chosen, whichever is later. Any vacancy in the
39 membership of the board shall be filled for the unexpired portion of
40 the term by the Governor.

41 (c) The chairperson and five of the members of the board appointed
42 by the Governor on or after February 1, 2008, to serve on parole release
43 panels shall devote full time to the performance of their duties under
44 this section and shall be compensated therefor in such amount as the
45 Commissioner of Administrative Services determines, subject to the
46 provisions of section 4-40. The other members of the board shall

47 receive one hundred ten dollars for each day spent in the performance
48 of their duties and shall be reimbursed for necessary expenses incurred
49 in the performance of such duties. The chairperson or, in the
50 chairperson's absence or inability to act, a member designated by the
51 chairperson to serve temporarily as chairperson, shall be present at all
52 meetings of the board and participate in all decisions thereof.

53 (d) The chairperson shall be the executive and administrative head
54 of said board and shall have the authority and responsibility for (1)
55 overseeing all administrative affairs of the board, (2) assigning
56 members to panels, (3) establishing procedural rules for members to
57 follow when conducting hearings, reviewing recommendations made
58 by employees of the board and making decisions, (4) adopting policies
59 in all areas of pardons and paroles including, but not limited to,
60 granting pardons, commutations of punishments or releases,
61 conditioned or absolute, in the case of any person convicted of any
62 offense against the state and commutations from the penalty of death,
63 risk-based structured decision making and release criteria, (5)
64 consulting with the Department of Correction on shared issues
65 including, but not limited to, prison overcrowding, (6) consulting with
66 the Judicial Branch on shared issues of community supervision, and (7)
67 signing and issuing subpoenas to compel the attendance and
68 testimony of witnesses at parole proceedings. Any such subpoena shall
69 be enforceable to the same extent as subpoenas issued pursuant to
70 section 52-143.

71 (e) Of the members appointed prior to February 1, 2008, the
72 chairperson shall assign seven members exclusively to parole release
73 hearings and shall assign five members exclusively to pardons
74 hearings. Except for the chairperson, no member assigned to parole
75 release hearings may be assigned subsequently to pardons hearings
76 and no member assigned to pardons hearings may be assigned
77 subsequently to parole release hearings. Prior to July 1, 2008, each
78 parole release panel shall be composed of two members from among
79 the members assigned by the chairperson exclusively to parole release

80 hearings or the members appointed by the Governor on or after
81 February 1, 2008, to serve exclusively on parole release panels, and the
82 chairperson or a member designated to serve temporarily as
83 chairperson, for each correctional institution. On and after July 1, 2008,
84 and prior to October 5, 2009, each parole release panel shall be
85 composed of two members appointed by the Governor on or after
86 February 1, 2008, to serve on parole release panels, at least one of
87 whom is a full-time member, and the chairperson or a full-time
88 member designated to serve temporarily as chairperson, for each
89 correctional institution. On and after October 5, 2009, each parole
90 release panel shall be composed of two members appointed by the
91 Governor to serve on parole release panels and the chairperson or a
92 full-time member designated to serve temporarily as chairperson, for
93 each correctional institution. Such parole release panels shall be the
94 paroling authority for the institutions to which they are assigned and
95 not less than two members shall be present at each parole hearing.
96 Each pardons panel shall be composed of three members from among
97 the members assigned by the chairperson exclusively to pardons
98 hearings or the members appointed by the Governor on or after
99 February 1, 2008, to serve on pardons panels, one of whom may be the
100 chairperson, except that for hearings on commutations from the
101 penalty of death, one member of the panel shall be the chairperson.

102 (f) The Board of Pardons and Paroles shall have independent
103 decision-making authority to (1) grant or deny parole in accordance
104 with sections 54-125, 54-125a, 54-125e and 54-125g, (2) establish
105 conditions of parole or special parole supervision in accordance with
106 section 54-126, (3) rescind or revoke parole or special parole in
107 accordance with sections 54-127 and 54-128, (4) grant commutations of
108 punishment or releases, conditioned or absolute, in the case of any
109 person convicted of any offense against the state and commutations
110 from the penalty of death in accordance with section 54-130a.

111 (g) The Department of Correction shall be responsible for the
112 supervision of any person transferred to the jurisdiction of the Board

113 of Pardons and Paroles during such person's period of parole or
114 special parole.

115 (h) The chairperson, or the chairperson's designee, and two
116 members of the board from among the members assigned by the
117 chairperson to serve exclusively on parole release panels or the
118 members appointed by the Governor on or after February 1, 2008, to
119 serve on parole release panels, shall conduct all parole release
120 hearings, and shall approve or deny all parole revocations and parole
121 rescissions recommended by an employee of the board pursuant to
122 section 54-127a. In the case of a hearing concerning a person convicted
123 of a violation of section 53a-54a, 53a-54c or 53a-54d, the panel shall be
124 comprised of three of the five longest serving parole release panel
125 members. No panel of the Board of Pardons and Paroles shall hold a
126 hearing to determine the suitability for parole release of any person
127 unless the chairperson of the board has made reasonable efforts to
128 determine the existence of and obtain all information deemed
129 pertinent to the panel's decision and has certified that all such
130 pertinent information determined to exist has been obtained or is
131 unavailable.

132 (i) The chairperson of the board shall appoint an executive director.
133 The executive director shall oversee the administration of the agency
134 and, at the discretion of the chairperson, shall: (1) Direct and supervise
135 all administrative affairs of the board, (2) prepare the budget and
136 annual operation plan, (3) assign staff to administrative reviews, (4)
137 organize pardons and parole release hearing calendars, (5) implement
138 a uniform case filing and processing system, and (6) create programs
139 for staff and board member development, training and education.

140 (j) The chairperson, in consultation with the executive director, shall
141 adopt regulations, in accordance with chapter 54, concerning:

142 (1) Parole revocation and rescission hearings that include
143 implementing due process requirements;

144 (2) An administrative pardons process that allows an applicant
145 convicted of a crime to be granted a pardon with respect to such crime
146 without a hearing, unless a victim of such crime requests such a
147 hearing, if such applicant was:

148 (A) Convicted of a misdemeanor and (i) such conduct no longer
149 constitutes a crime, (ii) such applicant was under twenty-one years of
150 age at the time of conviction and has not been convicted of a crime
151 during the five years preceding the date on which the pardon is
152 granted, or (iii) such conviction occurred prior to the effective date of
153 the establishment of a program under sections 17a-692 to 17a-701,
154 inclusive, section 46b-38c, 53a-39a, 53a-39c, 54-56e, 54-56g, 54-56i or 54-
155 56j for which the applicant would have been eligible had such program
156 existed at the time of conviction, provided the chairperson determines
157 the applicant would likely have been granted entry into such program;
158 or

159 (B) Convicted of a violation of section 21a-277, 21a-278 or 21a-279
160 and such applicant has not been convicted of a crime during the five
161 years preceding the date on which the pardon is granted, provided
162 such date is at least ten years after the date of such conviction or such
163 applicant's release from incarceration, whichever is later; [and]

164 (3) Requiring board members assigned to pardons hearings to issue
165 written statements containing the reasons for rejecting any application
166 for a pardon; [.] and

167 (4) In the case of any administrative parole hearing, no applicant for
168 parole may be granted parole unless each board member or employee,
169 who reviewed such applicant's file and any recommendation
170 concerning such applicant, certifies that he or she reviewed such
171 applicant's file and any such recommendation.

172 (k) The Board of Pardons and Paroles shall hold a pardons hearing
173 at least once every three months and shall hold such hearings in
174 various geographical areas of the state. The board shall not hold a

175 pardons hearing within or on the grounds of a correctional facility
176 except when solely for the benefit of applicants who are incarcerated at
177 the time of such hearing.

178 (l) The chairperson and executive director shall establish:

179 (1) In consultation with the Department of Correction, a parole
180 orientation program for all parole-eligible inmates upon their transfer
181 to the custody of the Commissioner of Correction that will provide
182 general information on the laws and policies regarding parole release,
183 calculation of time-served standards, general conditions of release,
184 supervision practices, revocation and rescission policies, and
185 procedures for administrative review and panel hearings, and any
186 other information that the board deems relevant for preparing inmates
187 for parole;

188 (2) An incremental sanctions system for parole violations including,
189 but not limited to, reincarceration based on the type, severity and
190 frequency of the violation and specific periods of incarceration for
191 certain types of violations; and

192 (3) A formal training program for members of the board and parole
193 officers that shall include, but not be limited to, an overview of the
194 criminal justice system, the parole system including factors to be
195 considered in granting parole, victim rights and services, reentry
196 strategies, risk assessment, case management and mental health issues.
197 Each member shall complete such training annually.

198 (m) The board shall employ at least one psychologist with expertise
199 in risk assessment and recidivism of criminal offenders who shall be
200 under the supervision of the chairperson and assist the board in its
201 parole release decisions.

202 (n) In the event of the temporary inability of any member other than
203 the chairperson to perform his or her duties, the Governor, at the
204 request of the board, may appoint a qualified person to serve as a
205 temporary member during such period of inability.

206 (o) The chairperson of the Board of Pardons and Paroles shall: (1)
207 Adopt an annual budget and plan of operation, (2) adopt such rules as
208 deemed necessary for the internal affairs of the board, and (3) submit
209 an annual report to the Governor and General Assembly.

210 Sec. 502. Subsection (e) of section 54-125a of the general statutes is
211 repealed and the following is substituted in lieu thereof (*Effective*
212 *October 1, 2015*):

213 (e) The Board of Pardons and Paroles may hold a hearing to
214 determine the suitability for parole release of any person whose
215 eligibility for parole release is subject to the provisions of subdivision
216 (2) of subsection (b) of this section upon completion by such person of
217 eighty-five per cent of such person's definite or aggregate sentence. An
218 employee of the board or, if deemed necessary by the chairperson, a
219 panel of the board shall assess the suitability for parole release of such
220 person based on the following standards: (1) Whether there is
221 reasonable probability that such person will live and remain at liberty
222 without violating the law, and (2) whether the benefits to such person
223 and society that would result from such person's release to community
224 supervision substantially outweigh the benefits to such person and
225 society that would result from such person's continued incarceration. If
226 a hearing is held, and if the board determines that continued
227 confinement is necessary, the board shall articulate for the record the
228 specific reasons why such person and the public would not benefit
229 from such person serving a period of parole supervision while
230 transitioning from incarceration to the community. No hearing
231 pursuant to the provisions of this subsection may proceed unless the
232 parole release panel is in possession of the complete file for such
233 applicant, including any documentation from the Department of
234 Correction, the trial record, the sentencing record and any file of any
235 previous parole hearing. Each member of the panel shall certify that all
236 such documentation has been reviewed in preparation for such
237 hearing. If a hearing is not held, the board shall document the specific
238 reasons for not holding a hearing and provide such reasons to such

239 person. No person shall be released on parole without receiving a
240 hearing. The decision of the board under this subsection shall not be
241 subject to appeal.

242 Sec. 503. Section 54-126a of the general statutes is repealed and the
243 following is substituted in lieu thereof (*Effective October 1, 2015*):

244 (a) (1) For the purposes of this section, "victim" means a person who
245 is a victim of a crime, the legal representative of such person, a
246 member of a deceased victim's immediate family or a person
247 designated by a deceased victim in accordance with section 1-56r.

248 [(b) At a] (2) The Board of Pardons and Paroles shall ensure that at
249 least two victims of any crime register his or her name and address
250 with the board, provided there are two victims of such crime. If there
251 are three victims of such crime, the board shall ensure each such victim
252 so registers with the board. If there is only one victim of such crime,
253 the board shall ensure that such victim so registers. Any other victim
254 of such crime may register with the board. A victim may designate
255 another person to receive notices and to represent the victim at
256 hearings. Prior to any hearing held by a panel [of the Board of Pardons
257 and Paroles] for the purpose of determining the eligibility for parole of
258 an inmate incarcerated for the commission of [any] such crime, the
259 board shall notify in writing each registered victim of such crime and
260 any other victim of such crime who is known to the board, the
261 Department of Correction or the Office of the Victim Advocate of the
262 time, date and location of the hearing and that such victim may make a
263 statement or submit a written statement pursuant to subsection (b) of
264 this section. At any such hearing, based on a statement of the Victim
265 Advocate or the Victim Advocate's designee, the record shall reflect
266 that every effort was made to contact all victims and their next of kin.
267 If there is no known victim or no such victim can be located, the board
268 shall notify the chief law enforcement of the town in which such crime
269 occurred of the time, date and location of such hearing.

270 (b) Each such panel shall permit any victim of the crime for which

271 the inmate is incarcerated to appear before the panel for the purpose of
 272 making a statement for the record concerning whether the inmate
 273 should be released on parole or the nature of any terms or conditions
 274 to be imposed upon any such release. In lieu of such appearance, the
 275 victim may submit a written statement to the panel and the panel shall
 276 make such statement a part of the record at the parole hearing.

277 (c) Nothing in this section shall be construed to prohibit the board
 278 from exercising its discretion to permit a member or members of a
 279 victim's immediate family to appear before the panel and make a
 280 statement in accordance with subsection (b) of this section.

281 Sec. 504. (NEW) (*Effective October 1, 2015*) (a) Prior to any hearing
 282 conducted by the Board of Pardons and Paroles to determine the
 283 suitability for parole release under the provisions of chapter 961 of the
 284 general statutes, the board shall notify the office of the Chief State's
 285 Attorney of such hearing by certified mail. Such notice shall identify
 286 the applicant being considered for parole and the time, date and place
 287 of such hearing.

288 (b) Any such hearing shall begin with a member of the parole
 289 release panel reading into the record of the hearing the records and
 290 documentation that shall be considered at such hearing. Any request
 291 for any such record or documentation by the office of the Chief State's
 292 Attorney or the Chief Public Defender shall be granted and shall not be
 293 subject to the provisions of chapter 14 of the general statutes."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>October 1, 2015</i>	54-124a
Sec. 502	<i>October 1, 2015</i>	54-125a(e)
Sec. 503	<i>October 1, 2015</i>	54-126a
Sec. 504	<i>October 1, 2015</i>	New section