

15-DAY RENOTICE OF PROPOSED RULEMAKING

TITLE 15. CRIME PREVENTION AND CORRECTIONS
DIVISION 2. BOARD OF PRISON TERMS
CHAPTER 6. PAROLE REVOCATION
ARTICLE 1. PAROLE HOLD POLICY
ARTICLE 3. REVOCATION PROCEDURES
ARTICLE 8. MULTIJURISDICTION REGULATIONS
ARTICLE 9. PAROLE REVOCATION EXTENSION PROCEDURES
ARTICLE 10. WORKTIME CREDITS

Amendment of Sections 2606, 2635.1, 2646.1, 2733, 2740, 2743 and 2744
Parole Revocation Proceedings

NOTICE IS HEREBY GIVEN that the Board of Parole Hearings (Board) (formerly known as the Board of Prison Terms) has made additional revisions to the proposed regulatory package of amendments to California Code of Regulations, (CCR), Title 15, Sections 2606, 2635.1, 2646.1, 2733, 2740, 2743 and 2744, necessitating a 15-day rennotice of the proposed regulatory action. Specifically, the Board has made further clarifying amendments to Sections 2606 and 2743. The Board is no longer pursuing amendment to Section 2742 and is no longer proposing creation of new section 2742.1, both regarding parole revocation extension proceedings. The Board has added additional, clarifying information in the Revised Initial Statement of Reasons. These seven remaining regulations are being amended to effectuate recent amendments to the Penal Code due to Criminal Justice Realignment and are necessary for public understanding of the parole revocation process and consistency and proportionality in application of due process for parolees undergoing parole revocation adjudications.

The full text of original proposed amendments to the California Code of Regulations that concern Parole Revocation Proceedings is provided in its original underline and ~~striketrough~~ format. Amendments to the original proposed text are indicated with double underline for additional text and ~~double striketrough~~ for additional deleted text.

The revisions necessitating rennotice are further described as follows:

Section 2606 is amended to add a subdivision (d) to define the term “Discovery Date”. The new language reads, “(d) Discovery Date. For purposes of this chapter, the discovery date is the date the parole supervising authority obtains knowledge that an alleged violation of parole has occurred.”

Section 2635.1 – no further amendments made following the initial 45-day notice

Section 2646.1 – no further amendments made following the initial 45-day notice

Section 2733 – no further amendments made following the initial 45-day notice

Section 2740 – no further amendments made following the initial 45-day notice

Section 2742 has been removed from the proposed regulatory package. The Board is not pursuing amendments to Section 2742 as it currently exists in Title 15 of the California Code of Regulations.

Section 2742.1 has been removed from the proposed regulatory package. The Board is not pursuing creation of a new regulation.

Section 2743 has been amended to replace every use of the term “Return-to-Custody Action” with the term “Revocation Period”. The term “Return-to-Custody Action” is a term of art not otherwise defined in the regulations, whereas “Revocation Period” is a term that is plain on its face as meaning the period of time the parolee is revoked.

Section 2744 – no further amendments made following the initial 45-day notice

AUTHORITY AND REFERENCE

Government Code section 12838.4 and Penal Code sections 3040, 3052 and 5076.2 authorize the Board to adopt the proposed regulations. This action is necessary to implement, interpret and make specific Penal Code sections 2932, 2933, 3000.1, 3056, 3057, 3060, 3060.5, 3064, 4019; and comply with recently-adopted legislation, collectively referred to as “Criminal Justice Realignment” (Assembly Bill 109 (approved by Governor, April 4, 2011, (2011-2012 Reg. Sess.)), as modified by Assembly Bill 117 (approved by Governor, June 30, 2011 (2011-2012 Reg. Sess.)), Assembly Bill 116 (approved by Governor, July 27, 2011 (2011-2012 Reg. Sess.)), and Assembly Bill 17X (approved by Governor, September 20, 2011 (2011-2012 1st Ex. Sess.))). This action is also necessary to implement requirements of *Valdivia v. Brown*, C-94-0671-LKK, (E.D. Cal.).

WRITTEN PUBLIC COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the Board. **THE WRITTEN COMMENT PERIOD ON THIS PROPOSED REGULATORY ACTION WILL COMMENCE ON June 1, 2012, AND WILL CLOSE AT 5:00 P.M. ON June 16, 2012.** In order for the comments to be considered by the Board, they must be submitted in writing (by mail, fax or e-mail) to the Board's Contact Person identified in this Notice no later than the close of the comment period.

CONTACT PERSON

Please direct requests for copies of the Revised Initial Statement of Reasons, the Amended Text of the regulation, or other information upon which the rulemaking is based to:

Anne Cervantes, Regulations Coordinator
Board of Parole Hearings
PO Box 4036

Sacramento, CA 95812-4036
Telephone: (916) 445-5277
Facsimile: (916) 322-3475
E-mail: Anne.Cervantes@cdcr.ca.gov

In any such inquiries, please identify the action by using the Board's regulation control number [RN 11-01](#).

Note: Substantive questions regarding this 15-Day Renote, Revised Initial Statement of Reasons, or the Amended Text may be directed to Katie Riley, Senior Staff Counsel, at (916) 324-9894.

NO PUBLIC HEARING SCHEDULED

The Board has not scheduled a public hearing on this proposed regulatory action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period. Written or facsimile comments submitted during the prescribed comment period have the same significance and influence as oral comments presented at a public hearing.

If one were to be scheduled, the purpose of a public hearing would be to receive oral comments about the proposed regulations. It would not be a forum to debate the proposed regulations, and no decision regarding the permanent adoption of the proposed regulations would be rendered at a public hearing. The members of the Board would not be present at a public hearing.

DISCLOSURES REGARDING THE PROPOSED ACTION

Local Mandates: The Board has determined that the proposed action imposes no mandate upon local agencies or school districts.

Fiscal Impact Statement: The Board has made the following initial determinations:

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: **None**
- Cost or savings to any state agency: **None**
- Other non-discretionary cost or savings imposed on local agencies: **None**
- Cost or savings in federal funding to the state: **None**

Significant Statewide Adverse Economic Impact on Business: The Board has determined that there is no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Assessment of Effects on Job and/or Business Creation, Elimination or Expansion: The Board has determined that adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing business within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on Housing Costs: The Board has made an initial determination that the proposed action will have no significant effect on housing costs.

Small Business Determination: The Board has determined that the proposed regulations do not have a significant adverse economic impact to small business as small business has no involvement in incarceration pending or following a parole revocation action.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested parties are accordingly invited to present statements or arguments with respect to any alternatives to the proposed changes during the public comment period.

AVAILABILITY OF PROPOSED TEXT AND REVISED INITIAL STATEMENT OF REASONS

The Board will make the rulemaking file available to the public throughout the rulemaking process at its offices located at 1515 K Street, Suite 600, Sacramento, California. As of the date this Notice is published in the Office of Administrative Law's Notice Register, the rulemaking file consists of this Notice, Form 400 (Notice of Submission of Regulations), the 15-Day Renote of the Amended Proposed Text of the Regulations, Revised Initial Statement of Reasons and Form 399 (Fiscal Impact Statement). Copies of these documents may be obtained by contacting the Board's Contact Person at the address or phone number listed above or by visiting the Board's website at: http://www.cdcr.ca.gov/BOPH/reg_revisions.html

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this Notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulation text to the attention of the Contact Person identified in this Notice or by visiting the Board's website at http://www.cdcr.ca.gov/BOPH/reg_revisions.html. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained from the Board's Contact Person identified in this Notice or by visiting the Board's website at:

http://www.cdcr.ca.gov/BOPH/reg_revisions.html

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