

PROPOSED AMENDED REGULATORY TEXT

Proposed additions are indicated by underline and deletions are indicated by ~~striketrough~~.

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 15. CRIME PREVENTION AND CORRECTIONS
DIVISION 2. BOARD OF PRISON TERMS
CHAPTER 5. PAROLE SUPERVISION
ARTICLE 1. LENGTH AND CONDITIONS OF PAROLE

Amend 15 CCR § 2510 to read as follows:

§ 2510. General.

The prisoner shall be informed of the length and conditions of parole. The board shall establish and impose the special parole conditions and the length of parole within the statutory maximum for all life prisoners, nonlife 1168 prisoners, and ISL prisoners released on ISL parole dates.

Under guidelines specified by the board, the department shall establish and impose the special conditions of parole and the length of parole within the statutory maximum for all DSL prisoners and ISL prisoners released on DSL release dates as retroactively calculated. The department shall impose any special conditions recommended by the board for DSL prisoners and ISL prisoners released on DSL release dates.

Note: Authority cited: Sections 12838.4, Government Code; 3052 and 5076.2, Penal Code.

Reference: Sections 3000, 3052, ~~and 3053~~ and 3060.5, Penal Code.

Amend 15 CCR § 2511 to read as follows:

§ 2511. Notice and Conditions of Parole.

(a) Definition. The notice of parole is a general description of rules and regulations governing parolees.

(b) Notice. The notice of parole shall read as follows:

When released from custody, you will be on parole for a period of years. You must obey these conditions of parole. If you do not, you may be arrested, returned to prison and have to serve more time on parole.

(c) Failure to Sign the Notice and Conditions of Parole. The Notice and Conditions of Parole shall state as follows:

You shall sign these conditions of parole and any special conditions imposed by your correctional counselor, parole agent, or the board. Failure to sign any condition of parole will result in your being returned to custody.

(d) Reasonable Accommodation. Inmates and parolees shall be provided with equal access to all parole proceedings. Persons with disabilities shall be provided reasonable accommodation consistent with legitimate penal interests. Access shall comply with the Armstrong Remedial Plan, (rev. 01/04/02) (ARP II) and the Valdivia Remedial Plan, (rev. 08/21/03). Persons with disabilities who believe they have been denied these rights may file a grievance as provided in section 2251.5.

~~1. Release. You will be released on parole effective _____ for a period of _____. This parole is subject to the following notice and conditions. Should you violate any conditions of this parole, you are subject to arrest and the board may modify, suspend, or revoke your parole and/or order your return to custody. You have read or have had read to you these conditions of parole and you fully understand them. Whenever any problems arise or you do not understand what is expected of you, talk to your parole agent.~~

~~2. Extradition. You waive extradition to the State of California from any State or Territory of the United States, or from the District of Columbia. You will not contest any effort to return you to~~

~~the State of California.~~

~~3. Psychiatric Returns. If the board determines that you suffer from a mental disorder which substantially impairs your ability to maintain yourself in the community or which makes you a danger to yourself or others, the board may order your placement in a community treatment facility or state prison, if necessary for treatment. The board may revoke your parole and order you returned to prison for psychiatric treatment if the necessary treatment cannot be provided in the community.~~

~~4. Search. You and your residence and any property under your control may be searched without a warrant at any time by any agent of the Department of Corrections or any law enforcement officer.~~

~~5. Detainer. If another jurisdiction has lodged a detainer against you, you may be released to the custody of that jurisdiction. Should you be released from their custody prior to the expiration of your California parole, or should the detainer not be exercised, you are to immediately contact the nearest Department of Corrections' Parole and Community Services Division Office for instructions concerning reporting to a parole agent.~~

~~6. Residence. The establishment and maintenance of a residence upon release from prison is critical to the successful reintegration of a parolee into society and is in the interest of the public.~~

~~7. Certificate of Rehabilitation. You have been informed and have received in writing the procedure for obtaining a Certificate of Rehabilitation.~~

Note: Authority cited: Sections 12838.4, Government Code; 3052 and 5076.2, Penal Code.

Reference: Sections 3053, 3056, 3057, and 3060, Penal Code; *Armstrong v. Schwarzenegger*

(2002) USDC – ND (No. C-94-2307-CW); Valdivia v. Schwarzenegger (2003) USDC – ED (No. C-94-0671-LKK).

Amend 15 CCR § 2512 to read as follows:

§ 2512. General Conditions of Parole.

The general conditions of parole shall read as follows:

(a) Criminal Conduct.

- (1) You must obey all laws.
- (2) The board may find that you have violated parole, even if you are not convicted in court and even if you are not charged with a crime.
- (3) If you are arrested or cited by any peace officer for any misdemeanor or felony, you must tell your parole agent right away. You must do this even if you are released.

(b) Instructions.

- (1) You must report to your parole agent the first working day after your release unless you have written permission to report later.
- (2) You must do what your parole agent tells you to do.
- (3) If another agency has placed a hold on you, you may be released to their custody. If you are released from their custody before the end of your parole period, you must contact the nearest California parole office immediately. They will tell you what to do.

(c) Searches.

- (1) Any parole agent or peace officer can search and seize you, your property, and any property under your control at any time of the day or night with or without cause.
- (2) They can also search your residence of record and where you live.

(d) Travel.

(1) You cannot go more than 50 miles from your home unless you have written permission from your parole agent.

(2) You cannot leave the county where you live for more than 2 days (48 hours) without written approval from your parole agent.

(3) You cannot leave California without written approval from your parole agent.

(4) If you are arrested in another state, you agree to give up your right to a hearing on whether you can be brought back to California.

(e) Residence and Employment.

(1) You must tell your parole agent where you are living and where you are working.

(2) You must tell your parole agent before you change where you live.

(3) You must tell your parole agent within 3 days if you lose, quit or change your job.

(4) You must tell your parole agent within 3 days if your work address changes.

(f) Weapons. You shall not own, use, have access to, or have under your control:

(1) Any kind of gun;

(2) Anything a reasonable person would think looks like a gun;

(3) Any ammunition that could be used in a gun;

(4) Any weapon not allowed by State or Federal law;

(5) Anything a reasonable person would think could be used as a weapon;

(6) Any knife with a blade longer than 2 inches;

(i) You can have kitchen knives, but they must be kept at your house in the kitchen.

(ii) You can have knives you need for work, but they can only be used and

carried during normal work hours for your job with your parole agent's approval.

(7) A crossbow of any kind.

~~(a) The parole conditions are not a contract but are the specific rules governing all parolees whether or not the parolee has signed the form containing the parole conditions. A violation of any of these conditions of parole may result in the revocation of parole and the parolee's return to prison. The general conditions of parole shall read as follows:~~

~~"(1) Special conditions. Any special condition imposed by the department or the board.~~

~~(2) Release, Reporting, Residence and Travel. Unless other arrangements are approved in writing, you will report to your parole agent within 24 hours or the next working day if released on the day before a holiday or weekend. Your residence and any change of residence shall be reported to your parole agent in advance. You will inform your parole agent within 72 hours of any change of employment location, employer or termination of employment.~~

~~(3) Parole Agent Instructions. You shall comply with all instructions of your parole agent and will not travel more than 50 miles from your residence without his/her prior approval. You will not be absent from your county of residence for a period of more than 48 hours and not leave the State of California without prior written approval of your parole agent.~~

~~(4) Criminal Conduct. You shall not engage in criminal conduct. You shall immediately inform your parole agent if you are arrested for a felony or misdemeanor under federal, state, or county law.~~

~~(5) Weapons. You shall not own, use, have access to, or have under your control: (a) any type of firearm or instrument or device which a reasonable person would believe to be capable of being used as a firearm or any ammunition which could be used in a firearm; (b) any weapon as~~

~~defined in state or federal statutes or listed in California Penal Code Section 12020 or any instrument or device which a reasonable person would believe to be capable of being used as a weapon; or (c) any knife with a blade longer than two inches, except kitchen knives which must be kept in your residence and knives related to your employment which may be used and carried only in connection with your employment; or (d) a crossbow of any kind.~~

~~(6) You shall sign the parole agreement containing the conditions of parole specified in this section and any special conditions imposed as specified in section 2513."~~

Note: Authority cited: Sections 12838.4, Government Code; Penal Code 3052 and 5076.2,;

Reference: Sections 3052, 3053, 3060.5 and 12020, Penal Code; Armstrong v. Schwarzenegger (2002) USDC – ND (No. C-94-2307-CW); Valdivia v. Schwarzenegger (2003) USDC – ED (No. C-94-0671-LKK).

Amend 15 CCR § 2513 to read as follows:

§ 2513. Special Conditions of Parole.

(a) A special conditions of parole can be mandatory or discretionary. Discretionary special conditions of parole may be established and imposed by the department or the board as provided in § 2510, and are in addition to the general conditions of parole. Mandatory special conditions of parole are those required by court order or statute where neither the department nor the board have discretion, and are in addition to the general conditions of parole. A violation of any of the special conditions of parole may result in the revocation of parole and the parolee's return to prison. Special conditions include:

(b) Special conditions of parole include:

(1) Gang Restriction. You are a gang member or associate. You cannot be around known gang members. You cannot wear or carry gang colors, clothing or items. You cannot be involved in any gang activity.

(2) Mentally Disordered Offender. You will be confined in a state hospital, and may be placed in a Conditional Release Program (CONREP) community outpatient mental health treatment pursuant to Penal Code section 2962 (MDO).

(3) Contact with Victim(s) or Victim(s) Family. You have committed a crime against a person. You may not contact the victim(s) or anyone in their family unless your parole agent gives you written permission. There cannot be contact of any kind. No visiting, calling, or writing to that person. You cannot ask another person to call, visit or write that person for you. You cannot go by where that person lives.

(4) Contact with Person Under the Age of 18. You have committed a crime against a person under the age of 18. You cannot have contact with any person under the age of 18 without permission from your parole agent. No contact of any kind. This means no visiting, calling, or writing. If you have accidental contact with a person under the age of 18, you must tell your parole agent immediately.

(c) Mandatory Special Conditions of Parole include, but are not limited to:

(1) You are required to register under Penal Code section 290. Because of this, you cannot live with another person who is also required to register under Penal Code section 290 unless you are related by blood, marriage, or adoption, or unless you are living in a residential facility where six or less people live.

(2) You are required to register under Penal Code section 290. Because of Penal Code section 3003.5, you cannot live within 2000 feet of any public or private school or any

park where children regularly get together. This applies even if you finish parole.

(3) You have a current or prior conviction for violating Penal Code section 288 or 288.5. You are also a High Risk Sex Offender. Because of Penal Code section 3003(g), you cannot live within one-half mile of any public or private school. This applies as long as you are on parole.

(4) You were convicted of a sex offense while under the influence of alcohol. Because of this, you cannot drink or have alcoholic beverages.

(5) A judge has issued a protective order that says that you cannot contact your victim. You must comply with this order.

You have the right to appeal special conditions of parole imposed by filing a CDC Form 602, Inmate/Parolee Appeal. Special conditions imposed by the board may be appealed through the court by filing a petition for writ of habeas corpus. You can request a reasonable accommodation on a CDCR Form 1824. You can also appeal a denial of a reasonable accommodation on a CDCR Form 1824.

(d) Additional Special Conditions of Parole. The Notice and Conditions of Parole shall indicate any additional special conditions of parole and shall state: You must obey these additional conditions of parole. Additional Special Conditions of Parole include, but are not limited to:

(1) You are not allowed to drink or have alcohol. You may not enter any bars or liquor stores. You have a history of alcohol abuse or alcohol has been a factor in one of your crimes. You will be required to submit to alcohol testing.

(2) Anti-Narcotic testing because you have a history of drug use.

(3) Attend Parole Outpatient Clinic as instructed because of mental health concerns.

(4) You are to be home between the hours of _____ and _____ because _____.

(5) You shall attend and complete _____.

(6) No contact with _____, reason: victim(s) in the crime.

(7) Additional Special Conditions along with reasons for the additional special conditions of parole.

(e) Right to Appeal Special and Additional Special Conditions of Parole. The Notice and Conditions of Parole shall state as follows:

You have the right to appeal special conditions of parole imposed by filing a CDC Form 602, Inmate/Parolee Appeal. Special conditions imposed by the board may be appealed through the court by filing a petition for writ of habeas corpus.

(f) Reasonable Accommodation and Appeal of Denial of Reasonable Accommodation. The Notice and Conditions of Parole shall state as follows:

You can request a reasonable accommodation on a CDCR Form 1824.

You can also appeal a denial of a reasonable accommodation on a CDCR Form 1824.

~~(a) "To participate in Psychiatric Treatment. You agree to participate in the psychiatric treatment program approved for you by the Parole and Community Services Division." This special condition shall be imposed whenever the board, or the department psychiatric staff, have determined that treatment is required for successful adjustment on parole.~~

~~(b) "To abstain from Alcoholic Beverages. You agree to totally abstain from the use of any alcoholic beverages or liquors." This special condition shall be imposed whenever the circumstances of the commitment offense are such that this condition is required by the provision of Penal Code section 3053.5. This special condition may also be imposed whenever the board or the department determines that such a condition is warranted by the circumstances of the case.~~

~~(c) "To Participate in Anti Narcotic Testing. You agree to participate in anti narcotic testing in accordance with instructions from a parole agent." This special condition may be imposed if there is a documented or admitted history of controlled substances usage.~~

~~(d) "Residence. You shall maintain a residence with a street address or a dwelling location approved in writing by the Parole and Community Services Division." This special condition shall be imposed on all parolees required to register under the provisions of Penal Code sections 290 and 457.1, and Health and Safety Code section 11590.~~

~~(e) "Gang Participation. You will not actively participate in, promote, further or assist in any prison gang, disruptive group, or criminal street gang activity as enumerated in Penal Code section 186.22(e), nor violate any gang abatement injunction, ordinance, or court order. You will not associate with any prison gang, disruptive group, or street gang member, nor wear or carry on your person, gang colors or any sign, symbol, or paraphernalia associated with gang activity." These special conditions may be imposed if there is a history of street gang, disruptive group, or prison gang membership, affiliation, or association.~~

~~As used in title 15, division 2, a disruptive group is defined as any gang other than a prison gang; a prison gang is defined as any gang which originated and has its roots within the department or any other prison system; and a criminal street gang is defined as any formal or informal organization, association, or group of three or more persons having as one of its primary activities the commission of a criminal act enumerated in Penal Code section 186.22(e), or planning, organizing, threatening, financing, or soliciting such acts. A gang is also defined as a group having a common identifying sign or symbol, whose members individually or collectively engage in, or have engaged in, repetitive or escalating non-criminal activities which the board determines to be a threat to public safety.~~

~~Only those gang tattoos received prior to parole are not considered to be a violation of this special condition.~~

~~(f) A special condition of parole which requires the parolee to participate in a residential program shall not be imposed without a Special Condition/Placement Hearing by the Board conducted in accordance with due process as defined in revocation procedures, Title 15, Division 2, Chapter 6, Article 3.~~

~~(1) A parolee with parole revocation charges shall have the review for Special Condition/Placement conducted concurrently with the Revocation Hearing.~~

~~(2) A parolee without parole revocation charges shall be afforded appropriate notification per s 2643 prior to the Special Condition/Placement Hearing.~~

~~(3) Waiver. A parolee may waive his right to a Board hearing pursuant to s 2641. If the parolee waives his right to a Board hearing, the Board, upon receipt of notification, may impose the special condition of parole that the parolee must participate in the residential program up to the statutory maximum (see s 2515).~~

~~(g) Other. Any other condition deemed necessary by the Board or the Department due to unusual circumstances. This special condition shall be imposed whenever warranted by unusual circumstances. The reasons for its imposition shall be sufficiently documented in the parolee's case records to explain the need for imposition.~~

Note: Authority cited: Sections 12838.4, Government Code; Penal Code Sections 3052, 3068 and 5076.2.

Reference 186.22, 290, 457.1, 3000, 3003.5, 3052, 3053, 3053.2, and 3053.5, Penal Code, and

Section 11590, Health and Safety Code; *Armstrong v. Schwarzenegger* (2002) USDC – ND (No. C-94-2307-CW); *Valdivia v. Schwarzenegger* (2003) USDC – ED (No. C-94-0671-LK).