Sexual Dangerousness Screening, Sexually Violent Predator Process, and Elderly Parole for Persons Sentenced for Specified Sexual Offenses

BPH RN 26-01E

1. **Why did the Board of Parole Hearings create these regulations?**
   The regulations are needed to guide the implementation of Assembly Bill (AB) 2727. AB 2727 requires three changes to the parole and sexually violent predator processes: 1) Persons who are serving an indeterminate term for a sexually violent offense and will be scheduled for a parole consideration hearing will receive a sexual dangerousness screening before their parole hearing. 2) Persons who are sentenced to an indeterminate term and are granted parole will be screened and may be evaluated for sexually violent predator proceedings. 3) The criteria for elderly parole was changed for persons who are sentenced under Penal Code sections 269, 288.7, 667.61, or 667.71.

Regulatory Process

2. **Why are emergency regulations being proposed?**
   AB 2727 was signed by the Governor on September 30, 2026, and is effective on January 1, 2027. To implement the provisions of AB 2727 in a transparent and consistent manner, regulations are needed. The short timeline for implementation does not allow for permanent regulations to be enacted before the January 1, 2027 deadline.

3. **Is there a public comment opportunity?**
   Yes. Comments on a proposed emergency rulemaking action must be submitted directly to Office of Administrative Law within **five** calendar days from when the Office of Administrative Law posts the notice of the proposed emergency regulations on the Office of Administrative Law web site (Emergency Regulations Under Review | OAL). Comments on a proposed emergency rulemaking action should be submitted directly to the Office of Administrative Law Reference Attorney by mail to 300 Capitol Mall, Suite 1250, Sacramento, California 95814, by fax to (916) 323-6826, or by e-mail to staff@oal.ca.gov. When submitting a comment on an emergency rulemaking action, a copy of the comment must also be submitted to the rulemaking agency's contact person. For this package the designated contact person is Tracy Young. Comments should be submitted by e-mail to BPH.Regulations@cdcr.ca.gov or by mail to Post Office Box 4036, Sacramento, CA 95812-4036.

4. **Will permanent regulations be adopted?**
   Yes. If approved, the emergency regulations will be in place for six months. The emergency regulations can be readopted for two additional 90-day periods. The Board will begin working on permanent regulations once the emergency regulations are approved. The permanent regulations will follow normal rulemaking procedures, including a 45-day public comment

period, consideration of public comments and a response explaining why amendments were or were not made, before the Board votes on the regulations.

5. **How can I be informed of future regulatory actions by the Board of Parole Hearings?**
   You can request information about future regulatory packages by emailing BPH.Regulations@cdcr.ca.gov and requesting to be added to the Regulations Notice Registry.

Sexual Dangerousness Screening

6. **Who will receive a sexual dangerousness screening?**
   Persons serving an indeterminate sentence for a sexually violent offense and who are being scheduled for a parole hearing. (See Welfare and Institutions Code section 6600, subdivision (b).) A sexual dangerousness screening will be prepared for hearings where the board acts on or after January 1, 2027, to schedule a parole suitability hearing.

7. **What is a sexual dangerousness screening?**
   A sexual dangerousness screening is a review conducted by a licensed psychologist. The psychologist reviews the incarcerated person's records, including their criminal history, the circumstances of their offense, their participation in programs while incarcerated, and their behavior in prison. Based on this information, the psychologist determines whether the person is likely to meet the legal definition of a sexually violent predator under Welfare and Institutions Code section 6600(a). The incarcerated person is not interviewed as part of this screening.

8. **Who prepares the sexual dangerousness screening?**
   A sexual dangerousness screening is completed by a licensed psychologist employed by or contracted by the Board. If the Board requests a secondary sexual dangerousness screening, it will be completed by a licensed psychologist from the Department of State Hospitals.

9. **Can a person submit materials to be considered in the sexual dangerousness screening?**
   Yes. An incarcerated person may submit information for the Board to consider. Materials can be submitted to the Board 10 months before the person expects to be scheduled for a parole hearing. Documents that are already in an incarcerated person's central file should not be submitted.

10. **When will the sexual dangerousness screening be prepared?**
    A sexual dangerousness screening will be prepared before a parole hearing. Generally, the sexually dangerousness screening will be initiated about 10 months prior to a parole hearing. The results of the sexual dangerousness screening will be provided to the incarcerated person at least 60 days before their hearing.

11. **How will the sexual dangerousness screening be used in the parole hearing process?**
Information from the sexual dangerousness screening may be included in a person's comprehensive risk assessment and must be considered by the parole hearing panel in determining whether the person is suitable for parole.

Expansion of Sexually Violent Predator Process

12. **What change is being made to the Sexually Violent Predator Process?**
- AB 2727 expanded the Sexually Violent Predator process to include persons serving indeterminate sentences who are granted parole and therefore may be subject to screening and evaluation for potential commitment and treatment as Sexually Violent Predators.
- AB 2727 also allows the Board to place a hold on a person's release for 90 days beyond their scheduled release date if a sexual dangerousness screening indicates that a person is likely to be a Sexually Violent Predator, so that a Sexually Violent Predator evaluation can be completed.

13. **Who do these changes impact?**
The changes will be applied to any person serving an indeterminate term with a qualifying offense who is granted parole on or after January 1, 2027. Existing law already requires the Board to conduct a Sexually Violent Predator screening for any person serving a determinate term with a qualifying offense.

Elderly Parole Changes

14. **Who is impacted by changes to elderly parole?**
- Persons sentenced for aggravated sexual assault of a child (Pen. Code, § 269),
- Persons sentenced for specified sex acts committed by an adult on a child 10 years or younger (Pen. Code, § 288.7),
- Persons sentenced for a one-strike sex offense (Pen. Code, § 667.61), or
- Persons sentenced as a habitual sex offender (Pen. Code, § 667.71).

15. **What changes have been made to the criteria for eligibility for elderly parole?**
Effective January 1, 2027, the Penal Code requires that a person serving a term for a sentence identified in number 14 must serve 25 years of continuous incarceration and must be 65 years of age to be eligible for elderly parole. However, these persons will be eligible for elderly parole earlier because the court-ordered elderly parole remains in effect with different criteria (see number 16).

16. **How Does the Three-Judge Panel Court Order Impact Elderly Parole Eligibility?**
The February 2014 Three-Judge Court Order remains in effect. Under that order, a person is eligible for elderly parole consideration after reaching 60 years of age and serving 25 years of

continuous incarceration. As long as the court order remains in effect, CDCR and the Board will use these criteria when recalculating elderly parole eligible dates affected by AB 2727. If the court order is later vacated or dismissed, elderly parole eligibility will instead be based on the criteria established by AB 2727, which is 65 years of age and serving 25 years of continuous incarceration.

17. **How will persons be notified of new elderly parole eligible dates?**
    CDCR case records will begin reviewing files and updating elderly parole eligible dates as needed. If a person's elderly parole eligible date changes, they will receive a chrono notifying them of the new date.

18. **What if there is a mistake in a person's eligibility determination or elderly parole eligible date under AB 2727?**
    If an incarcerated person believes AB 2727 should not apply to them or believes their elderly parole eligible date was calculated incorrectly, they should submit a CDCR Form 602-1/1824 to their institution's Office of Grievances. The incarcerated person should request that Case Records Services review their eligibility determination and verify that the date was calculated correctly.

19. **What happens to parole hearings already scheduled?**
    AB 2727 requires the Board to review all scheduled hearings and "cancel parole hearings for people [sentenced under Penal Code sections 269, 288.7, 667.61, or 667.71], that were scheduled based solely on an Elderly Parole Eligible Date calculated using 50 years of age and 20 years of continuous incarceration."

20. **How will persons be notified if their hearing is canceled?**
    The Board will issue a written decision explaining that the hearing was canceled because the person's elderly parole eligible date is in the future and they are not yet eligible for parole consideration. The decision will be sent to Case Records Services to be delivered to the incarcerated person.

21. **Can an appeal be filed if a hearing is canceled because of AB 2727?**
    No. A hearing cancellation based on AB 2727 cannot be appealed. However, an incarcerated person may request review of their recalculated elderly parole eligible date by following the process described in question 18. If an error is identified in the recalculation of the elderly parole eligible date and the error results in the incarcerated person being incorrectly found ineligible for a hearing, the date will be corrected, and a hearing will be automatically scheduled once the person becomes eligible.