



FOR INFORMATIONAL PURPOSES

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WHAT IS AN ELDERLY PAROLE HEARING?

All parole consideration hearings held by the Board of Parole Hearings are governed by Penal Code section 3041. At a parole hearing the board must consider all relevant and reliable evidence and determine whether releasing the person would pose an unreasonable risk of danger to society. At elderly parole hearings, the same standard and procedures apply, but in addition the board is required to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk of violence.

HISTORY OF ELDERLY PAROLE PROGRAM

On February 10, 2014, the three-judge panel in the *Plata/Coleman v. Newsom* class action lawsuits ordered CDCR to “finalize 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.” In response, the state implemented the Elderly Parole Program. In 2018, the California Legislature enacted Assembly Bill (AB) 1448 (2017-2018 Reg. Session), which codified into law the Elderly Parole Program by adding section 3055 to the Penal Code.

On January 1, 2021, the California Legislature enacted AB 3234, modifying Penal Code section 3055 to lower the age of qualification for the statutory Elderly Parole Program to individuals 50 years or older and have served 20 years or more of continuous incarceration. (Pen. Code, § 3055, subd. (a).) There are exclusions to this criteria, and those people disqualified under the statutory Elderly Parole Program continue to receive elderly parole consideration under the criteria of the original court-ordered Elderly Parole Program, as set by the three-judge panel (60 years old and 25 years of continuous incarceration).

The Board implemented regulations for conducting elderly parole hearings. These regulations can be found in California Code of Regulations, title 15, division 2, sections 2449.40 through 2449.43.

INDIVIDUALS WHO ARE ELIGIBLE FOR AN ELDERLY PAROLE HEARING

Statutory Elderly Parole Program: Under the statutory Elderly Parole Program, a qualified individual's elderly parole eligible date (EPED) is calculated based on when they turn 50 years old and have served 20 years of continuous incarceration.

The following individuals are excluded from the statutory Elderly Parole Program: (1) those sentenced under California's strike laws as a second or third strike under Penal Code sections

667(b)-(i) or 1170.12; (2) those sentenced to death; (3) those sentenced to life without the possibility of parole; or (4) those convicted of first-degree murder of a peace officer or former peace officer due to performance of their official duties. (Pen. Code, § 3055, subd. (g) & (h).)

Court-Ordered Elderly Parole Program: The court-ordered Elderly Parole Program continues for those excluded from statutory elderly parole for a crime sentenced under California's strike laws as a second or third strike under Penal Code sections 667(b)-(i) or 1170.12, or a conviction for first degree murder of a peace officer or former peace officer due to performance of their official duties. These individuals will retain their EPED based on the date they are age 60 and have served 25 years of continuous incarceration.

TIMING OF AN ELDERLY PAROLE HEARING

Both determinately-sentenced and indeterminately-sentenced individuals may be eligible for an elderly parole hearing under statutory elderly parole and court-ordered elderly parole. For all qualified individuals, the California Department of Corrections and Rehabilitation (CDCR) Case Records Services will calculate the individual's EPED according to the requirements of the Elderly Parole Program under which the individual qualified. Notably, an individual who qualifies for statutory elderly parole will also later qualify for court-ordered elderly parole, but an EPED will only be calculated once to identify the earliest date on which the individual is eligible for elderly parole.

Individuals with a future EPED will generally be scheduled for their initial parole consideration hearings within six months after their EPED unless they are entitled to an earlier initial hearing under another provision of law. If an individual's EPED is recalculated due to the 2021 Penal Code amendment and is in the past, the Board has until December 31, 2022, to conduct a parole consideration hearing unless the individual has already received an initial parole consideration hearing. (Pen. Code, § 3055, subd. (j).)

For individuals who have already received a parole consideration hearing, the timing of a subsequent hearing is governed by Penal Code section 3041.5, subdivision (b), paragraph (3). A person who has already received a parole consideration hearing will not receive another or different hearing based on their EPED. Instead, at their next parole consideration hearing the elderly factors in Penal Code section 3055 will be considered. Additionally, if a determinately sentenced individual's Earliest Possible Release Date (EPRD) is earlier than their EPED, they will be released at their EPRD without receiving elderly parole consideration.

FACTORS CONSIDERED AT AN ELDERLY PAROLE HEARING

At an elderly parole hearing, the hearing panel shall give special consideration to the individual's age, time served, and diminished physical condition, if any, when determining the individual's suitability for parole. In addition, these same factors are also considered by the Board's forensic clinical psychologists when they prepare risk assessments for elderly parole hearings. Further information about the elderly factors can be found in the board's regulation California Code of Regulations, title 15, section 2449.43.

RELEASE DATES AND DENIAL LENGTHS FOR ELDERLY PAROLE HEARINGS

If an individual is granted parole at an elderly parole hearing, they will be eligible for release immediately after the decision granting them parole has completed applicable review periods. The decision granting parole is subject to the Board's decision review process and the Governor's review process, which can take up to five months.

If an individual is denied parole at an elderly parole hearing, they will be denied parole for 15, 10, 7, 5, or 3 years. (Pen. Code, § 3041.5, subd. (b)(3).)

VICTIMS' RIGHTS AT ELDERLY PAROLE HEARINGS

The 2021 amendment to Penal Code section 3055 does not alter the rights of victims at elderly parole hearings. Victims who would like to request notice and an opportunity to attend an elderly parole hearing or who would like to request notice of an individual's release must register with CDCR's Office of Victim & Survivor Rights & Services. For further information, or to inquire about court-ordered restitution, please visit [CDCR's Office of Victim & Survivor Rights & Services website](#) or call toll-free 1-877-256-6877.