

TEXT OF PROPOSED REGULATIONS

In the following text, underline indicates newly added text and ~~strikethrough~~ indicates repealed text.

California Code of Regulations, Title 15, Division 2, Board of Parole Hearings

Chapter 3. Parole Release

Article 16. Parole Consideration for Indeterminately-Sentenced Nonviolent Offenders

Section 2449.32. Parole Consideration Hearings.

Subsections 2449.32(a) through 2449.32(b) are unchanged.

New subsection 2449.32(c) is adopted.

(c) Notwithstanding other provisions of law, the board shall, by no later than December 31, 2022, schedule all parole consideration hearings for indeterminately-sentenced nonviolent offenders who became eligible for an initial parole consideration hearing as a result of the California Supreme Court's decision in *In re Gadlin* (2020) 10 Cal.5th 915, and whose nonviolent parole eligible date is on or before December 31, 2022. Indeterminately-sentenced nonviolent offenders who became eligible for an initial parole consideration hearing as a result of the California Supreme Court's decision in *In re Gadlin* (2020) 10 Cal.5th 915, and who, as of April 1, 2021, have been continuously incarcerated for 20 years or more and are within five years of their Minimum Eligible Parole Date, shall be scheduled for an initial parole consideration hearing on or before July 1, 2022.

Former subsections 2449.32(c) through 2449.32(e) are renumbered to 2449.32(d) through 2449.32(f) and are unchanged.

(ed) Hearing panels shall conduct parole consideration hearings for indeterminately-sentenced nonviolent offenders in compliance with the requirements for initial and subsequent parole consideration hearings described in this Division, Penal Code §Sections 3040, et seq., and applicable case law.

(de) If a hearing panel finds an indeterminately-sentenced nonviolent offender suitable for parole, and the parole grant is not vacated or rescinded, the inmate shall be released subject to all applicable review periods required by §Sections 3041, 3041.1, and 3041.2 of the Penal Code, notwithstanding ~~his or her~~ their minimum eligible parole date or any additional terms imposed for in-prison offenses.

(ef) If a hearing panel finds an indeterminately-sentenced nonviolent offender unsuitable for parole, the panel shall impose a denial period in accordance with paragraph (3) of subdivision (b) of §Section 3041.5 of the Penal Code. The inmate's next hearing date may be advanced under paragraph (4) of subdivision (b) or paragraph (1) of subdivision (d) of §Section 3041.5 of the Penal Code.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and *In re Gadlin* (2020) 10 Cal.5th 915. Reference: Cal. Const., art. 1, sec. 32(a); and Sections 3041, 3041.1, 3041.2 and 3041.5, Penal Code.

California Code of Regulations, Title 15, Division 3, Adult Institutions, Programs, and Parole

Chapter 1. Rules and Regulations of Adult Operations and Programs

Subchapter 5.5. Parole Consideration

Article 1. Parole Consideration for Determinately-Sentenced Nonviolent Offenders

Section 3491. Eligibility Review.

Subsection 3491(a) is unchanged.

Subsection 3491(b) is unchanged but is shown for reference.

(b) Notwithstanding subsection (a), an inmate is not eligible for parole consideration by the Board of Parole Hearings under Article 15 of Chapter 3 of Division 2 of this title if any of the following apply:

Subsections 3491(b)(1) and 3491(b)(2) are amended.

(1) The inmate is an indeterminately-sentenced nonviolent offender as defined in section 3495, in which case ~~he or she~~ they may be eligible for parole consideration under Article 2 of this subchapter; or

(2) Within one year of the date of the eligibility review, the inmate will be eligible for a parole consideration hearing under §Section 3051 or 3055 of the Penal Code or the inmate has already been scheduled for an initial parole consideration hearing under §Section 3051 or 3055 of the Penal Code; ~~or~~

Subsection 3491(b)(3) is repealed.

~~(3) The inmate is convicted of a sexual offense that currently requires or will require registration as a sex offender under the Sex Offender Registration Act, codified in Sections 290 through 290.024 of the Penal Code.~~

Subsections 3491(c) through 3491(g) are unchanged.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Section 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a).

Article 2. Parole Consideration for Indeterminately-Sentenced Nonviolent Offenders

Section 3492. Eligibility Review and Referral to the Board of Parole Hearings.

Subsections 3492(a) through 3492(e) are unchanged.

New subsection 3492(f) is adopted.

(f) Determinately-sentenced nonviolent offenders who became eligible for parole consideration as a result of the California Supreme Court's decision in *In re Gadlin* (2020) 10 Cal.5th 915, and whose nonviolent parole eligible date is on or before July 1, 2021, shall be referred to the Board of Parole Hearings for parole consideration by July 1, 2021. This subsection shall not apply to determinately-sentenced nonviolent offenders whose earliest possible release date is on or before November 1, 2021.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); ~~and~~ Section 5058, Penal Code; and *In re Gadlin* (2020) 10 Cal.5th 915. Reference: Cal. Const., art. 1, sec. 32(a).

Section 3496. Eligibility Review.

Subsection 3496(a) is unchanged.

Subsection 3496(b) is repealed.

~~(b) Notwithstanding subsection (a), an inmate is not eligible for a parole consideration hearing by the Board of Parole Hearings under Article 16 of Chapter 3 of Division 2 of this title if the inmate is convicted of a sexual offense that currently requires or will require registration as a sex offender under the Sex Offender Registration Act, codified in Sections 290 through 290.024 of the Penal Code.~~

Former subsections 3496(c) through 3496(e) are renumbered to 3496(b) through 3496(d) and are unchanged.

~~(b)~~ The Department shall complete an eligibility review within 60 calendar days of an inmate's admission to the Department.

~~(c)~~ The Department shall conduct a new eligibility review whenever an official record, such as an amended abstract of judgment or minute order, is received that affects the inmate's eligibility under this article or when an inmate begins serving a term for one or more in-prison offenses of which at least one is an indeterminate term and none is for a "violent felony."

~~(d)~~ The Department shall conduct an eligibility review by completing the following steps:

Subsections 3496(d)(1) and 3496(d)(2) are amended.

(1) The Department shall determine if the inmate is eligible for a parole consideration hearing by the Board of Parole Hearings under subsections (a) ~~and (b)~~ of this section.

(2) If the inmate is eligible for a parole consideration hearing by the Board of Parole Hearings under subsections (a) ~~and (b)~~, the Department shall identify the inmate's primary offense, as defined in subsection 3495(d) of this article.

Subsections 3496(d)(2)(A) and 3496(d)(2)(B) are unchanged.

Subsection 3496(d)(3) is amended.

(3) If the inmate is eligible for a parole consideration hearing by the Board of Parole Hearings under subsections (a) ~~and (b)~~, the Department shall establish ~~his or her~~ their nonviolent parole eligible date, as defined in subsection 3495(f) of this article.

Former subsections 3496(f) and 3496(g) are renumbered to 3496(e) through 3496(f) and are unchanged.

~~(f)~~ Eligibility reviews under this section shall be served on the inmate and placed in the inmate's central file within 15 business days of being completed.

~~(g)~~ Eligibility reviews under this section are subject to the Department's inmate appeal process in accordance with Article 8 of Chapter 1 of this Division.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); ~~and~~ Section 5058, Penal Code; and *In re Gadlin* (2020) 10 Cal.5th 915. Reference: Cal. Const., art. 1, sec. 32(a).

Section 3497. Referral to the Board of Parole Hearings.

Subsections 3497(a) through (d) are unchanged.

New subsection 3497(e) is adopted.

(e) Indeterminately-sentenced nonviolent offenders who became eligible for an initial parole consideration as a result of the California Supreme Court's decision in *In re Gadlin* (2020) 10 Cal.5th 915, shall be referred to the Board of Parole Hearings for parole consideration by July 1, 2021, unless they have previously been scheduled for a parole consideration hearing under any other provision of law or will be eligible for a parole consideration hearing under any other provision of law within 12 months.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); ~~and~~ Section 5058, Penal Code; and *In re Gadlin* (2020) 10 Cal.5th 915. Reference: Cal. Const., art. 1, sec. 32(a).