

**State of California
Office of Administrative Law**

In re:

Department of Corrections and
Rehabilitation

Regulatory Action:

Title 15, California Code of Regulations

Adopt sections: 3769, 3769.1, 3769.2,
3769.3, 3769.4, 3769.5,
3769.6

Amend sections:

Repeal sections:

NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION

Government Code Sections 11346.1 and
11349.6, and Penal Code Section 5058.3

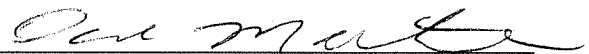
OAL File No. 2011-0404-01 EON

This operational necessity emergency rulemaking action implements SBX3 18, Chapter 28 of 2009, to create the Parolee Reentry Court Program (RCP). The RCP serves as an alternative to reincarceration for parolees who have substance abuse or mental health conditions and who violate conditions of their parole. The rulemaking specifies RCP services, eligibility and exclusionary criteria, the referral process, parole agent duties, rules for processing parole violations and absconders from the RCP, and also incorporates by reference two new forms used in administration of the program.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code, and section 5058.3 of the Penal Code.

This emergency regulatory action is effective on 4/15/2011 and will expire on 9/23/2011. The Certificate of Compliance for this action is due no later than 9/22/2011.

Date: 4/15/2011



Dale P. Mentink
Senior Staff Counsel

For: DEBRA M. CORNEZ
Assistant Chief Counsel/
Acting Director

Original: Matthew Cate
Copy: Josh Jugum

EMERGENCY

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2011-0404-01EON
For use by Office of Administrative Law (OAL) only		2011 APR -4 PM 12: 21 OFFICE OF ADMINISTRATIVE LAW	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Corrections and Rehabilitation			AGENCY FILE NUMBER (if any) 10-156

ENDORSED FILED
IN THE OFFICE OF

2011 APR 15 PM 2: 18

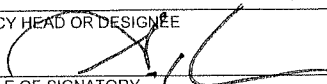

 DEBRA BOWEN
 SECRETARY OF STATE
A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Parolee Reentry Court Program	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 3769, 3769.1, 3769.2, 3769.3, 3769.4, 3769.5 and 3769.6 AMEND REPEAL
TITLE(S) 15	
3. TYPE OF FILING	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)	<input type="checkbox"/> File & Print
<input type="checkbox"/> Print Only	<input checked="" type="checkbox"/> Other (Specify) <u>Emergency Op. Nec. PC 5058.3</u>
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)	
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)	
<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State
<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission
<input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> State Fire Marshal
7. CONTACT PERSON Josh Jugum	TELEPHONE NUMBER 916 445-2228
FAX NUMBER (Optional) 916 324-6075	E-MAIL ADDRESS (Optional) Joshua.jugum@cdcr.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 3-30-11
TYPED NAME AND TITLE OF SIGNATORY SCOTT KERNAN, Undersecretary, Operations	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

APR 15 2011

Office of Administrative Law

TEXT OF PROPOSED REGULATIONS

In the following, all new language is indicated by underline.

Subchapter 6. Adult Parole

Article 19. PAROLE VIOLATIONS AND REPORTS

Under Article 19, new Sections 3769, 3769.1, 3769.2, 3769.3, 3769.4 and 3769.5 are adopted to read:

3769. Parole Reentry Court Program.

(a) As part of the parole reentry accountability program for parolees established under Penal Code section 3015, the Reentry Court Program (RCP) operates under an established memorandum of understanding between the Administrative Office of the Court and the California Department of Corrections and Rehabilitation (department). The RCP is designed to promote public safety, hold parolees accountable for their behavior, and reduce recidivism.

(b) Under the RCP, services that may be provided to program participants include but are not limited to:

(1) Substance abuse and addiction treatment.

(2) Residential housing.

(3) Individual/group counseling.

(4) Vocational training.

(5) Anger management.

(6) Intensified supervision

(c) For the purpose of sections 3769 – 3769.6, the following terminology is defined:

(1) Reentry court program team is defined as the parole agent, representatives from county probation, the district attorney's office, court, and treatment provider.

(2) History of substance abuse is defined as a documented arrest history related to criminal use or possession of a controlled substance, to include alcohol.

(3) History of mental illness is defined as a documented history of any mental illness as determined by a psychiatrist, psychologist, or social worker licensed by the State to make those determinations.

(4) Reentry Court is defined as a county superior court authorized by an agreement with the department to participate in the reentry court program.

(5) Dual Jurisdiction is defined as a situation in which a parolee with a current sentence under the jurisdiction of the department also has a new sentence pending before the court and/or is currently on local probation.

(6) Deputy Commissioner is defined as an official with the Board of Parole Hearings responsible for adjudicating parole revocation cases.

(7) Reentry Parole Agent is defined as a parole agent with the department who is assigned to assist in the administration of the reentry court program.

(8) Reentry Court Judge is defined as a judge assigned to the participating reentry court program who is responsible for the judicial oversight of parolees in the program.

(9) Referral Packet is defined as the package of reports, forms and supporting documents compiled by the department that is required for referral of a parolee into the reentry court program.

Note: Authority cited: Section 5058, Penal Code. Reference Sections 3015, and 5054, Penal Code.

3769.1. Reentry Court Program Eligibility Criteria.

(a) To be eligible for the Reentry Court Program (RCP) a parolee must meet all of the following eligibility criteria:

(1) Parolees must have been sentenced to a term of imprisonment under Penal Code section 1170 and released from an institution or facility to a period of parole supervision.

(2) Parolees must have a documented history of substance abuse or mental illness.

(3) Parolees must violate their conditions of parole.

(b) A parolee who meets the above criteria may be referred by his or her parole agent for participation in the RCP pursuant to section 3769.3.

Note: Authority cited: Section 5058, Penal Code. Reference Sections 1170, 3015, and 5054, Penal Code.

3769.2. Reentry Court Program Exclusionary Criteria.

(a) The following offenders are excluded from participating in the Reentry Court Program (RCP):

(1) Parolees required to register as a sex offender pursuant to the provisions of Penal Code section 290 through 290.023, inclusive.

(2) Parolees subject to supervision via Global Positioning System monitoring as provided in section 3560.

(3) Parolees subject to non-revocable parole pursuant to section 3505.

(4) Any exclusionary criteria established by the participating RCP county.

Note: Authority cited: Section 5058, Penal Code. Reference Sections 290 through 290.023, 3015, and 5054, Penal Code.

3769.3. Participation in the Reentry Court Program.

(a) Parolees who meet the eligibility criteria provided in section 3769.1 and who are not otherwise excluded as provided for in section 3769.2 may participate in the Reentry Court Program (RCP) if one of the following referrals is made:

(1) The RCP judge may refer a parolee who is under the dual jurisdiction of the department and local probation, or who is currently on parole and facing new criminal charges that may result in a new conviction and subsequent return to prison.

(2) A Deputy Commissioner may refer a parolee who commits a violation of parole to the RCP as a remedial sanction. The Parole Violation Decision Making Instrument shall be utilized in making a determination whether to refer the parolee, pursuant to the provisions of sections 3768 through 3768.3.

(3) Parole Agents may refer directly to the RCP a parolee who commits a violation of parole which is not subject to mandatory referral to the Board of Parole Hearings pursuant to section 2616. A parolee referred under this subsection shall:

(A) Waive his or her right to a revocation hearing by signing a CDCR Form 1420 (Rev. 08/10), Placement Acknowledgement Waiver, which is incorporated by reference.

(B) Sign the CDCR Form 1515-RCP (12/10), Reentry Court Program Special Conditions of Parole, which is incorporated by reference.

Note: Authority cited: Section 5058, Penal Code. Reference Sections 3015 and 5054, Penal Code.

3769.4. Parole Agent Responsibilities - Reentry Court Program.

(a) The reentry parole agent will work as part of the Reentry Court Program (RCP) team. Reentry parole agent duties shall include, but not be limited to the following:

(1) Attend RCP team meetings at least once per week.

(2) Present referral packets to the RCP team for review.

(3) Obtain any additional parole casework information requested by the RCP team.

(4) Act as liaison between the reentry court and other divisions and programs within the department.

Note: Authority cited: Section 5058, Penal Code. Reference Sections 3015 and 5054, Penal Code.

3769.5. Processing Violations of Parole – Reentry Court Program.

(a) Any new violation of parole will be transmitted in accordance with the provisions of sections 3768.3. The alleged violation shall be referred to the Reentry Court Program in accordance with the provisions of subsection 3768.2(a)(5). The authority to place a parole hold on an alleged parole violator shall be retained by the department.

(b) The reentry parole agent will submit a summary of charges for any new violation of parole to the reentry court judge for review and disposition. Within two business days of a reentry court parolee being placed into custody, the reentry parole agent shall coordinate with the reentry court judge to determine if the parolee shall remain in, or be terminated from, the reentry court program.

Note: Authority cited: Section 5058, Penal Code. Reference Sections 3015 and 5054, Penal Code.

3769.6. Processing Absconders from Parole – Reentry Court Program.

(a) In the event a parolee is determined to have absconded from Reentry Court Program (RCP) supervision, the violation shall be reported to the Board of Parole Hearings (BPH) and processed pursuant to the provisions for the suspension of parole and issuance of a warrant in Title 15, Division 2, sections 2711 and 2731.

(b) When an absconding RCP parolee is located, the parolee shall be detained in a county jail pursuant to a parole hold pending the parolee's appearance before the RCP judge on the absconding charge.

(c) In the event the BPH acted to suspend the absconder's parole, the Reentry Parole Agent shall, upon being advised that the parolee is in custody, initiate the process for reinstatement of parole.

(d) Pursuant to PC section 3015, the RCP judge has exclusive authority to hear and adjudicate the absconding charge. If the RCP judge chooses to terminate the parolee's participation in the RCP, the BPH shall retain the authority to hear the charge and determine appropriate sanctions.

Note: Authority cited: Section 5058, Penal Code. Reference Sections 3015, and 5054, Penal Code.

REENTRY COURT PROGRAM – SPECIAL CONDITIONS OF PAROLE

You are being referred to a Reentry Court Program (RCP) for program consideration to address your substance abuse and/or mental illness related issue(s). If you are not admitted into the program, your parole agent will identify a different program for you to attend.

If you are let into the program, the court can place conditions of parole on you, order treatment, choose incentives, order penalties, remove parole holds, and settle any alleged violations. If the court takes you out of the program, you will return to normal parole.

When you are in the RCP program, you have to comply with the program rules of the County and the rules of your parole agent.

REENTRY COURT PROGRAM

INITIAL

1. You shall participate in programs picked by the court.
2. You must go to all meetings scheduled by the court.
3. You will participate in anti-narcotic testing as directed by the Judge.
4. If you do not follow instructions given to you by the Court, you may be placed in custody and serve time in the county jail.
5. You will actively participate in substance abuse treatment as directed by the Judge.
6. If you fail to complete the Reentry Court Program, you may be returned to custody or receive another penalty.

Reason(s) for imposition of the RCP special condition(s) of parole: You have a documented history of substance abuse and/or mental illness as proven by:

***LOCATION OF REENTRY COURT:**

Reentry Court:
Street Address:
Room/Floor:
City, State, Zip Code:
Telephone Number:

*You must go to the Reentry Court listed above on _____, the _____ of _____, _____
(Day of the week) (Day) (Month) (Year)

Unit Supervisor's Signature

Badge Number

Date Signed

APPEAL RIGHTS

You have the right to appeal special conditions of parole imposed by the Department of Corrections and Rehabilitation by filing a CDC Form 602, Inmate/Parolee Appeal Form.

STAFF ISSUANCE/OBSERVATIONS

I have reviewed the Disability and Effective Communication System and the Field File for disability and effective communication source documents.

I have informed this inmate/parolee of this notice and have determined that he/she:

Appears to understand *Appears to have difficulty understanding*

Effective Communication Method Used: (please circle)

Foreign Language Interpreter Sign Language Interpreter Read/Spoke Slowly

Assistive Device (specify) _____

Other (please explain) _____

If assistance was provided to the inmate/parolee, complete the below information:

After providing assistance, the inmate/parolee:

Explained the conditions in his/her own words. *Does not appear to understand*

Comments:

Inmate/Parolee Name (Last, First, MI)	CDC Number	Inmate/Parolee's Signature	Date Signed

Staff Name/Title/Badge Number	Staff Signature	Date Signed

Pursuant to the provisions of Health and Safety Code § 11561 and 11563, when the Board of Parole Hearings (BPH) concludes that there are reasonable grounds for believing that a person on parole is addicted or habituated to, or is in imminent danger of addiction or habituation to, controlled substances or alcohol, it may, in accordance with procedures used to revoke parole, issue an order to detain or place the person in a substance abuse treatment program for a period not to exceed 90 days.

No person on parole shall be placed in a residential substance abuse treatment program against his or her will. Such placement shall require a hearing to be conducted by the BPH, unless the hearing is waived by the parolee.

WAIVER OF HEARING RIGHT: Participation in Live-in Program as a Special Condition of Parole [Title 15, CCR§2641(a)]

You have a right to a hearing before the State can require you to be in a live-in program. If you sign this form you are waiving your right to a hearing and agree to successfully complete the program.

You may waive your right to a revocation hearing and accept the above instructions. Or you may decide not to waive your right to a revocation hearing.

I waive my right to a Board of Parole Hearings revocation hearing. I will complete the approved California Department of Corrections and Rehabilitation residential treatment program listed below. I know I will have a special condition of parole that requires me to do so.

TREATMENT PROGRAM NAME	PROGRAM ADDRESS	PROGRAM PHONE NO.

The program may include all or one of the following, a live-in, which may be “in-custody,” educational based drug treatment phase, immediately followed by a residential aftercare treatment phase, and/or an outpatient treatment phase to include mandatory attendance at AA/NA.

In-Custody treatment phase: Start Date: End Date:
 In-Community treatment phase: Start Date: End Date:
 After-care treatment phase: Start Date: End Date:
 Outpatient treatment phase: Start Date: End Date:
 Projected completion date of substance abuse treatment program:

OR

I request Revocation Proceedings be started. I request a Placement Hearing be started.

INMATE/PAROLEE OR ATTORNEY: (PRINT NAME)	INMATE/PAROLEE OR ATTORNEY SIGNATURE	CDC NUMBER	REGION	DATE SIGNED
STAFF (WITNESS): (PRINT NAME)	STAFF SIGNATURE	TITLE	BADGE NUMBER	DATE SIGNED

TO BE COMPLETED BY STAFF: I have informed the parolee of the above information, and believe that he/she:

Appears to understand Appears to have difficulty understanding

EFFECTIVE COMMUNICATION METHOD USED (simple English, interpreter, etc.):

Comments:

STAFF NAME (PRINT)	STAFF SIGNATURE	TITLE	BADGE NUMBER	DATE SIGNED
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