

SB 260 (Hancock)

Review for Juveniles Sentenced to Adult Prison Terms

As amended 6/27/2013

PURPOSE OF THE BILL

SB 260 holds young people responsible for the crimes they committed, but it recognizes that youth are different from adults and gives them a chance to demonstrate remorse and rehabilitation. This bill would hold young people accountable by requiring a lengthy minimum prison sentence, but provide people who were under the age of 18 at the time of their crime an opportunity to work toward rehabilitation and the possibility for release on parole. It establishes a youth opportunity review to evaluate their cases after serving substantial prison terms as specified.

PROBLEM & NEED FOR THE BILL

Over 6,500 people currently in California prisons were under the age of 18 at the time of their crime. They were minors, but tried as adults and sentenced to adult prison terms. Many are transferred to the adult system without consideration of their ability to change. Tremendous growth and maturity often occurs in the late teens through the mid-20s. The current system provides no viable mechanism for reviewing a case after a young person has grown up and matured. California law should motivate young people to focus on rehabilitation, and provide opportunities for judicial review and a modified sentence for individuals who can prove they merit a second chance.

Existing sentencing laws ignore recent scientific evidence on adolescent development and neuroscience. Research has shown that certain areas of the brain, particularly those that affect judgment and decision-making, do not fully develop until the early 20's. The US Supreme Court stated in its 2005 *Roper v. Simmons* decision, "[t]he reality that juveniles still struggle to define their identity means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character." Moreover, the fact that young adults are still developing means that they are uniquely situated for personal growth and rehabilitation. The US Supreme Court recently held unconstitutional mandatory life without parole sentences for people under the age of 18, and required courts to consider the youthfulness of

defendants facing that sentence.¹ The California Supreme Court recently ruled that a sentence exceeding the life expectancy of a juvenile is the equivalent of life without parole, and unconstitutional in nonhomicide cases.² These decisions recognize that it is wrong to deny someone who commits a crime under the age of 18 the opportunity to demonstrate rehabilitation.

Piecemeal changes to California law since the 1990s have removed many safeguards and points for review that once existed for youth charged with crimes. California transfers without careful consideration of amenability to rehabilitation many youth under the age of 18 years old to the adult criminal justice system where they face adult prison terms. For example, laws now mandate the automatic transfer of youth as young as 14 years old to adult court for certain crimes, or permit a direct file in adult court without any review of the youth's circumstances. The role of judges and a careful, considered process before transferring youth to the adult criminal justice system has been severely limited.

EXISTING LAW

Existing law sentences youth to adult terms with no opportunity for judicial review of the sentences outside of ordinary appeals. Existing law provides that the secretary of the Department of Corrections and Rehabilitation or the Board of Parole Hearings may recommend to the court an inmate's sentence be recalled, and that a court may recall an inmate's sentence. However, current law fails to take into account factors of rehabilitation and remorse as well as the youthfulness of the offender, or what the US Supreme Court describes in *Miller v. Alabama*, as the "hallmarks of youth."

WHAT THIS BILL WOULD DO

SB 260 would create a parole review process for cases where an individual was under 18 years of age at the time of the offense and prosecuted as an adult. This bill would require the Board of Parole Hearings (BPH) to establish a youth opportunity review using criteria reflected in the

¹ *Miller v. Alabama* (2012)

² *People v. Caballero* (2012)

Supreme Court decisions. The BPH would provide an individual, five years prior to parole eligibility, information and recommendation on his or her progress toward parole suitability. Specifically, this bill requires:

- 1) For a nonhomicide offense or manslaughter:
 - a. a person with a sentence less than 40 years would be eligible to be considered for parole after serving 15 years of incarceration;
 - b. a person with a sentence more than 40 years would be eligible to be considered for parole after serving 20 years of

incarceration;

- 2) For a homicide offense a person would be eligible to be considered for parole after serving 15 years of incarceration for murder in the second degree;
- 3) For a homicide offense a person would be eligible to be considered for parole after serving 25 years of incarceration for murder in the first degree;

This bill excludes individuals sentenced to life without the possibility of parole and sentenced under Three Strikes law.

SUPPORT as of 7/2/2013

Human Rights Watch (sponsor)
Youth Law Center (co-sponsor)
Friends Committee on Legislation of CA (co-sponsor)
USC School of Law Post Conviction Clinic (co-sponsor)
Youth Justice Coalition (co-sponsor)
A Place Called Home
All of Us of None
All Saints Church Foster Care Project
American Civil Liberties Union (ACLU)
American Friends Service Committee
American Probation and Parole Association
Amnesty International
Advancement Project
Bar Association of San Francisco
Berkeley Organizing Congregations for Action
Black Organizing Project
Boys and Girls Club of San Gabriel Valley
California Attorneys for Criminal Justice (CACJ)
California Catholic Conference, Inc.
California Church IMPACT
California Coalition for Women Prisoners
California Coalition for Youth
California Communities United Institute
California Families to Abolish Solitary Confinement
California Fund for Youth Organizing
California Public Defenders Association (CPDA)
California Teachers Association (CTA)
Californians for Safety and Justice
Californians United for a Responsible Budget (CURB)
Campaign for the Fair Sentencing of Youth
Campaign for Youth Justice
Center on Juvenile and Criminal Justice
Children's Defense Fund
Day One
Disability Rights Education & Defense Fund
Disability Rights California
Dolores Mission Catholic Church
East Bay Children's Law Offices
Everychild Foundation
Equal Justice Society
Friends Outside
Healing Justice Coalition

Human Rights Advocates
Jesuits of the California Province
Just Detention International
Justice Not Jails
Justice Now
Juvenile Law Center
Law Office of Donald R. Hammond
Legal Services for Children
Legal Service for Prisoners with Children
Life Support Alliance
Los Angeles Community Action Network
Los Angeles County Sheriff Baca
Loyola Law School Center for Juvenile Law and Policy
Mexican American Legal Defense and Education Fund (MALDEF)
National Center for Lesbian Rights
National Center for Youth Law
National Juvenile Justice Network
National Partnership for Juvenile Services
Office of Restorative Justice of the Archdiocese of LA
Pacific Juvenile Defender Center
Public Council – Children's Right's Project
Prison Law Office
Religious Sisters of Charity
San Francisco District Attorney George Gascón
Santa Clara University
Service Employees International Union (SEIU) Local 1000
Sisters of Mercy US Province
Sisters of the Company of Mary
St. Mark's United Methodist Church
Tax Payers for Improving Public Safety
The W. Haywood Burns Institute
The Women's Foundation of CA
University of San Francisco Center for Law and Global Justice
University Synagogue
Violence Prevention Coalition of Greater LA
Yolo County Office of Education
Yolo County Public Defender's Office

1,800+ letters from individuals

OPPOSITION

California District Attorneys Association
Crime Victims United
Los Angeles County District Attorney Jackie Lacey (oppose unless amended)
Crime Victims Action Alliance

BILL STATUS

Passed Assembly Public Safety Committee on July 2, 2013 on a 4:2 vote.

Passed Senate Floor with bi-partisan support on May 28, 2013 on a 27:11 vote.

KEY CONTACTS

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