
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 1094 **Hearing Date:** July 1, 2025
Author: Bains
Version: May 23, 2025
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Crimes: torture of a minor: parole*

HISTORY

Source: Orange County District Attorney's Office

Prior Legislation: Proposition 9, as approved by the voters on November 4, 2008
Proposition 115, as approved by the voters June 5, 1990

Support: Arcadia Police Officers' Association; Brea Police Association; Burbank Police Officers' Association; California Association of School Police Chiefs; California Coalition of School Safety Professionals; California District Attorneys Association; California Narcotic Officers' Association; California Police Chiefs Association; California Reserve Peace Officers Association; California State Sheriffs' Association; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Fullerton Police Officers' Association; Los Angeles School Police Management Association; Los Angeles School Police Officers Association; Murrieta Police Officers' Association; Newport Beach Police Association; Palos Verdes Police Officers Association; Placer County Deputy Sheriffs' Association; Pomona Police Officers' Association; Riverside Police Officers Association; Riverside Sheriff Association

Opposition: ACLU California Action; Californians United for a Responsible Budget; Initiate Justice; Initiate Justice Action; Justice2Jobs Coalition; La Defensa; San Francisco Public Defender; Smart Justice California; UnCommon Law

Assembly Floor Vote: 74 - 0

PURPOSE

The purpose of this bill is to prohibit a person imprisoned for committing torture from being eligible for parole until the person has served at least 14 years, if the defendant is an adult who had care or custody of the victim and the victim was 14 years of age or younger at the time of the crime.

Existing law states every person who, with the intent to cause cruel or extreme pain and suffering for the purpose of revenge, extortion, persuasion, or for any sadistic purpose, inflicts great bodily injury upon the person of another, is guilty of torture. Specifies that the crime of torture does not require any proof that the victim suffered pain. (Pen. Code, § 206.)

Existing law provides that torture is punishable by imprisonment in the state prison for a term of life. (Pen. Code, § 206.1.)

Existing law provides that an incarcerated person imprisoned under a life sentence shall not be paroled until the person has served the greater of the following:

- A term of at least seven calendar years.
- A term as established pursuant to any other law that establishes a minimum term or minimum period of confinement under a life sentence before eligibility for parole. (Pen. Code, § 3046, subd. (a).)

Existing law establishes various processes related to parole suitability hearings. (Pen. Code, §§ 3040-3049.)

Existing law provides that parole shall be granted to an incarcerated person unless the Board of Parole Hearings (BPH) determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).)

Existing law mandates BPH, in considering parole for an individual, consider all statements and recommendations which may have been submitted by the judge, district attorney, and sheriff, or in response to notices given pursuant to existing law, and recommendations of other persons interested in the granting or denying of parole. (Pen. Code, § 3046, subd. (d).)

Existing law provides that any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where the child's person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years. (Pen. Code, § 273a, subd. (a).)

Existing law provides that any person, having the care or custody of a child who is under eight years of age, who assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child's death, shall be punished by imprisonment in the state prison for 25 years to life. (Pen. Code, § 273ab, subd. (a).)

Existing law provides that any person, having the care or custody of a child who is under eight years of age, who assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child becoming comatose due to brain injury or suffering paralysis of a permanent nature, shall be punished by imprisonment in the state prison for life with the possibility of parole. (Pen. Code, § 273ab, subd. (b).)

Existing law provides that any person who willfully inflicts upon a child any cruel or inhuman corporal punishment or an injury resulting in a traumatic condition is guilty of a felony and shall be punished by imprisonment for two, four, or six years, or in a county jail for not more than one year, by a fine of up to \$6,000, or by both imprisonment and fine. (Pen. Code, § 273d, subd. (a).)

Existing law provides that any person who is found guilty of cruel or inhuman corporal punishment or an injury of a child resulting in a traumatic condition shall receive a four-year enhancement for a prior conviction of that offense, except as provided. (Pen. Code, § 273d, subd. (b).)

Existing law provides that any person who personally inflicts great bodily injury on any person other than an accomplice in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for three years. (Pen. Code, § 12022.7, subd. (a).)

Existing law provides that any person who personally inflicts great bodily injury on any person other than an accomplice in the commission of a felony or attempted felony which causes the victim to become comatose due to brain injury or to suffer paralysis of a permanent nature shall be punished by an additional and consecutive term of imprisonment in the state prison for five years. (Pen. Code, § 12022.7, subd. (a).)

Existing law provides that any person who personally inflicts great bodily injury on a child under the age of five years in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for four, five, or six years. (Pen. Code, § 12022.7, subd. (d).)

This bill prohibits a person imprisoned for the crime of torture committed after January 1, 2026, from being eligible for parole until the person has served at least 14 years, if the defendant is an adult who had care or custody of the victim and the victim was 14 years of age or younger at the time of the crime.

COMMENTS

1. Need For This Bill

According to the author:

AB 1094 will increase the minimum sentence for individuals convicted of torturing a child 14 years of age or younger. The bill recognizes the extreme harm caused to child victims and the necessity of greater deterrence and punishment for perpetrators who inflict such trauma on vulnerable children. The bill acknowledges the unique and severe impact of torture on children, aligning the penalty with the gravity of the crime and the victim's vulnerability.

2. Torture

Torture was added to the Penal Code following the passage of Proposition 115 by the voters in 1990, and the statute has not been amended since that time. Penal Code section 206 provides that "every person who, with the intent to cause cruel or extreme pain and suffering for the purpose of revenge, extortion, persuasion, or for any sadistic purpose, inflicts great bodily injury as defined... upon the person of another, is guilty of torture." The punishment for torture is "imprisonment in the state prison for a term of life." (Pen. Code, § 206.1) When the punishment for a crime is "life" but a term is not specified, the minimum term is seven years. (Pen. Code, § 3046, subd. (a)(1).)

Torture requires a showing that the defendant intended to inflict great bodily injury for a specific purpose. “[T]he Supreme Court has explained the additional punishment is imposed because a defendant’s intent to inflict pain for a sadistic purpose is deserving of additional punishment. The focus must be on the defendant’s intent to inflict pain for revenge, extortion, persuasion or for any sadistic purpose rather than on the severity of the injuries or the duration of the attack.” (*People v. Pre* (2004) 117 Cal.App.4th 413, 424.) Torture may be charged and convicted along with the “assaultive crimes” forming the basis of the torture charge. Penal Code section 654, however, “precludes imposition of unstayed sentences for both torture and any of the underlying assaultive offenses upon which the prosecution relies to prove that element.” (*People v. Mejia* (2017) 9 Cal.App.5th 1036, 1044-1045.)

The following data was provided by the California Department of Corrections and Rehabilitation as it pertains to the in-custody population on December 31, 2024. This data reflects individual counts and not necessarily unique individuals.

Offense	Principle Counts	Subordinate Counts
PC § 206- Torture	220	382
PC § 273a(a)- Child endangerment	415	1,442
PC § 273ab(a)- Assault on child under 8 resulting in death	265	73
PC § 273ab(b)- Assault on child under 8 resulting in coma or permanent paralysis	9	4
PC § 273d(a)- Felony child abuse	32	304

With respect to Penal Code section 12022.7(d)—the great bodily injury on a child under 5 enhancement—there were 460 counts among the in-custody population.

3. Other Crimes That Could Be Charged Under Existing Law

The background materials provided by the author’s office included summaries of two recent cases in which the bill’s sponsor successfully obtained convictions and for which the defendants are currently serving time in prison. The proponents of the bill argue that the torture statute should distinguish between acts of torture involving young victims from torture involving other victims, and assert that the current amount of time that a person convicted of torture must serve before becoming eligible for parole is too short. This bill requires that a person convicted of torture serve at least 14 years prior to being eligible for parole. The bill limits the scope to adult defendants whose victim was in their care or custody. In other words, this bill concerns acts of child abuse which may be prosecuted under several provisions of existing law.

Depending on the facts alleged, child abuse that does not result in the child’s death could be charged as attempted murder which is punishable by imprisonment in state prison for life with the possibility of parole. (Pen. Code, § 664, subd. (a).) Alternatively, a defendant may be charged with felony child abuse resulting in traumatic injury—punishable by two, four, or six years in

state prison—or child endangerment—punishable by two, four, or six years in state prison. (Pen. Code, §§ 273d, subd. (a), 273a, subd. (a).)

A number of enhancements may also be charged. For example, a great bodily injury enhancement—carrying a three-year state prison term—may be charged. (Pen. Code, § 12022.7, subd. (a).) An enhancement for personally inflicting great bodily injury causing the victim to become comatose or to suffer permanent paralysis—carrying a five-year state prison term—may be charged. (Pen. Code, § 12022.7, subd. (b).) Finally, an enhancement for personally inflicting great bodily injury on a child under five in the commission of a felony or attempted felony—carrying a four-, five-, or six-year state prison term—may be charged. (Pen. Code, § 12022.7, subd. (d).) The sentences for each of these enhancements is imposed in addition and consecutive to the sentence for the underlying offense.

If a defendant is charged and convicted of multiple counts of child abuse, the defendant may receive consecutive sentences but that does mean that each count will be sentenced for the full term. As stated above, Penal Code section 654 precludes multiple punishments for a single act or indivisible course of conduct. (*People v. Miller* (1977) 18 Cal.3d 873, 885.) In the case of child abuse for which a defendant was convicted of torture and more than one count of felony child abuse, the torture conviction and at least one of the counts of child abuse could not be sentenced consecutively if that count of child abuse was alleged as the assaultive conduct that formed the basis of the torture charge. Any additional acts of child abuse, however, may be sentenced consecutively if the sentencing court determines that abuse is not part of an indivisible course of conduct.¹

4. Parole Hearings

A parole hearing is a hearing to determine whether an incarcerated individual is suitable for release to parole supervision. Incarcerated individuals who are indeterminately sentenced must be granted parole by the parole board in order to be released from prison.

The Penal Code provides that the parole board “shall grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual.” (Pen. Code, § 3041, subd. (b).) The fundamental consideration when making a determination about an individual’s suitability for parole is whether the person currently poses an unreasonable risk of danger to society if released from prison. (*In re Shaputis* (2008) 44 Cal.4th 1241.) The decision whether to grant parole is an inherently subjective determination. (*In re Rosenkrantz* (2002) 29 Cal.4th 616, 655.)

In deciding whether to grant parole, BPH must consider all relevant and reliable information available. (Cal. Code Regs., tit. 15, §§ 2402, subd. (b), 2281, subd. (b).) Factors BPH must

¹ Penal Code section 1170.1, subdivision (a), provides: “[W]hen any person is convicted of two or more felonies, ... and a consecutive term of imprisonment is imposed ..., the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term, and any additional term imposed for applicable enhancements ... The principal term shall consist of the greatest term of imprisonment imposed by the court for any of the crimes, including any term imposed for applicable specific enhancements. The subordinate term for each consecutive offense shall consist of one-third of the middle term of imprisonment prescribed for each other felony conviction for which a consecutive term of imprisonment is imposed, and shall include one-third of the term imposed for any specific enhancements applicable to those subordinate offenses.”

consider include the nature of the commitment offense, including the circumstances of the person's social history; past and present mental state; past criminal history, including involvement in other criminal misconduct which is reliably documented; the base and other commitment offenses, including behavior before, during and after the crime; past and present attitude toward the crime; any conditions of treatment or control, including the use of special conditions under which the individual may safely be released to the community; and any other information which bears on the individual's suitability for release. (Cal. Code Regs., tit. 15, § 2281, subd. (b).) The regulations further state that "[c]ircumstances which taken alone may not firmly establish unsuitability for parole may contribute to a pattern which results in a finding of unsuitability." (*Ibid.*)

Although the parole board is required to consider the circumstances of the offense, the California Supreme Court has held that it may not rely solely on the commitment offense when deciding to grant parole unless the circumstances of the offense "continue to be predictive of current dangerousness." (*In re Lawrence* (2008) 44 Cal.4th 1181, 1221.) The parole board is prohibited from requiring an admission of guilt when considering whether to grant an individual parole. (Pen. Code, § 5011, subd. (b).) However, "an implausible denial of guilt may support a finding of current dangerousness, without in any sense requiring the inmate to admit guilt as a condition of parole....it is not the failure to admit guilt that reflects a lack of insight, but the fact that the denial is factually unsupported or otherwise lacking in credibility." (*In re Shaputis* (2011) 53 Cal.4th 192, 216.) Although the term "insight" is not explicitly included in the regulations, the regulations "direct the Board to consider the inmate's 'past and present attitude toward the crime' and 'the presence of remorse,' expressly including indications that the inmate 'understands the nature and magnitude of the offense'... fit[ting] comfortably within the descriptive category of 'insight.'" (*Id.* at 218 (citations omitted).)

The victim, victim's next of kin (if the victim is not alive), members of the victim's family, and two representatives have the right to appear at the parole hearing to express their views concerning the incarcerated person and the case, including the incarcerated person's suitability and the effect of the crime or crimes on the victim and victim's family. (Pen. Code, § 3043, subd. (b)(1).) Notably, the victim and others entitled to attend the hearing may submit a written or electronic recording of their statement to the parole board in lieu of appearing at a parole hearing in person, and the board is required to consider any such statement prior to making a parole suitability determination. (Pen. Code, § 3043.2, subd. (a).)

A finding of suitability is subject to an internal review period as well as gubernatorial review. A finding of unsuitability results in a denial of parole. Marsy's Law, approved by the voters on November 4, 2008 and codified in Penal Code section 3041.5, delineates when the individual's next parole hearing is to be scheduled (i.e., three, five, seven, ten, or fifteen years). BPH may in its discretion, after considering the views and interests of the victim, advance a subsequent parole hearing to an earlier date, when a change in circumstances or new information establishes a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration of the individual. (Pen. Code, § 3041.5, subd. (b)(4).) An incarcerated individual may also petition the board to exercise its discretion to advance a subsequent parole hearing to an earlier date, by submitting a written request, setting forth the change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration of the individual. (Pen. Code, § 3041.5, subd. (d)(1).)

The bill's sponsor contends that crime victims are re-victimized each time they attend a parole hearing, and note that in many cases, parole hearings for individuals convicted of torture can begin relatively soon after their prison term begins due to credits that are awarded for pre-trial incarceration. The bill is intended to limit that re-victimization by requiring the defendants in these cases to serve at least 14 years before they are eligible for parole.

As discussed above, victims have the right to appear at parole hearings but may submit a written or electronic statement to BPH instead of attending a hearing. In addition, eligibility for parole does not mean that the person will be granted parole. Although the parole grant rate has varied over time, the grant rate for hearings held between 2019 and 2024 for which the panel reached a decision to either grant or deny parole (i.e., excluding scheduled hearings that were postponed, waived, canceled, continued, or for which the person stipulated to unsuitability) ranged between 28-35%. (See BPH, *Parole Suitability Proceedings and Statistical Data by Calendar Year* available at <<https://www.cdcr.ca.gov/bph/statistical-data/>>.) In other words, approximately 65-70% of individuals are denied parole in any given year.

5. Argument in Support

According to the California District Attorneys Association:

Children, by nature, are particularly vulnerable to abuse and exploitation, and when they are subjected to torture, the long-term consequences can be devastating. The emotional, psychological, and physical trauma inflicted on a child in these situations is immeasurable, often affecting not only the victim but the broader community as well. As a society, we have an obligation to ensure that children are protected, and those who commit such heinous acts must face meaningful consequences.

Currently, the law imposes the same penalties for the torture of both children and adults, which fails to recognize the far more egregious nature of crimes against children. Torturing a child is often carried out with greater malice and cruelty, taking advantage of a child's vulnerability and inability to escape. This distinction should be reflected in the punishment. Other sections of the Penal Code already impose enhanced penalties for crimes committed against children, and the crime of torture should be no different. Increasing the penalty for child torture from 7-years-to-life to 25-years-to-life would better align the punishment with the severity of the crime and the moral gravity of targeting the most defenseless members of society.

This bill is a critical step in ensuring that those who harm our most vulnerable members of society, particularly children, are held accountable to the fullest extent of the law.

6. Argument in Opposition

UnCommon Law writes:

This bill purports to protect children by doubling the minimum sentence served requirement for torture under Penal Code Section 206.1 if the child was under the age of 14. If enacted, an adult convicted under PC 206.1 would be required to

serve a minimum of 14 years on a life sentence before they could become eligible for parole consideration.

...

Torture of a child is a heinous and despicable act, and California law has severe penalties for it. Under PC 206.1 as currently written, torture against a person of any age carries a life sentence whereby the person must serve a minimum of 7 years before they are eligible to be considered for parole (commonly referred to as 7-to-life). Specific to children, prosecutors can *also* impose felony charges carrying up to a 6-year sentence under PC 273d if someone “willfully inflicts upon a child any cruel or inhuman corporal punishment or an injury resulting in a traumatic condition.”

Prosecutors can simultaneously bring felony charges, depending on the circumstances, of great bodily injury (GBI) under PC 245(a)(1). Furthermore, GBI is a strikeable offense under the Three Strikes Law, and PC 273d also allows for an additional 4-year enhancement if the person has a prior conviction. If GBI was inflicted on a child under the age of 5, prosecutors can bring another 4-6 year enhancement under PC 12022.7(d). In other words, existing law gives prosecutors a plethora of options for charges they could bring for the crime of child torture that collectively carry *far longer sentences* than PC 206.1.

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