
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 1070 **Hearing Date:** April 19, 2016
Author: Hancock
Version: February 16, 2016
Urgency: No **Fiscal:** No
Consultant: MK

Subject: *Youth Offender Parole Hearings*

HISTORY

Source: Human Rights Watch

Prior Legislation: SB 261 (Hancock) – Chapter 471, Stats. 2015
SB 260 (Hancock) – Chapter 312, Stats. 2013

Support: Unknown

Opposition: California District Attorneys Association (unless amended)

PURPOSE

The purpose of this bill is to make technical changes to the provisions governing youth offender parole.

Existing law requires the Board of Parole Hearings to conduct a youth offender parole hearing for offenders sentenced to state prison who committed specified crimes when they were less than 23 years of age. (Penal Code §3051 and 4801)

This bill replaces the word juvenile with youth in these sections.

Existing law, for the purposes of a youth parole hearing, defines “controlling offense” as the offense or enhancement for which any sentencing court imposed the longest term of imprisonment. (Penal Code § 3051(a)(2)(B))

This bill instead deletes enhancement from the above definition of “controlling offense.”

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state’s ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its “ROCA” policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as “of December 9, 2015, 112,510 inmates were housed in the State’s 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015.” (Defendants’ December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).) One year ago, 115,826 inmates were housed in the State’s 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants’ December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Bill

According to the author:

This bill makes a technical change to SB 260 / 261 (Hancock 2015) to make the law consistent. SB 260/261 requires the Board of Parole Hearings to conduct a youth offender parole hearing for offenders sentenced to state prison who committed those specified crimes when they were less than 23 years of age.

Thus, this bill changes the word “juvenile” to “youth.” This bill also removes “enhancement” from the definition of a “controlling offense.”

2. Technical changes

This bill makes technical changes.

According to Human Rights Watch:

In 2013, California enacted SB 260, creating a specialized “Youth Offender Parole” process for people who were under the age of 18 at the time of their crimes, but tried as adults and sentenced to lengthy adult prison terms. In 2015, the state enacted SB 261, extending the SB 260/Youth Offender Parole process to people who were 22 years old or younger at the time of their crimes. Whereas the law previously only applied to juveniles, it now applies to juveniles and youth up through age 22. Because the law no longer solely applies to juveniles, the word “juvenile” should be changed to “youth.” This will eliminate potential confusion for the Board of Parole Hearings, youth offenders, and the public.

3. Proposed amendments:

The author will offer these amendments in Committee:

The following amendment addresses the concern raised by CDAA:

- Page 2 line 7 reinsert the deleted words “or enhancement”

The following amendments are technical:

- Page 2 amend lines 10 through 29 as follows:
 - (1) *Unless previously released pursuant to other statutory provisions or court orders, Aan ~~person-inmate~~ who was convicted of a controlling offense that was committed before the ~~person-inmate~~ had attained 23 years of age and for which the sentence is a determinate sentence shall be eligible for release on parole ~~at a youth offender parole hearing by the board during~~ **following completion of** his or her 15th year of incarceration, **upon being granted parole by the board pursuant to paragraph (1) of subdivision (b) of section 3041 at a youth offender parole hearing** ~~unless previously released pursuant to other statutory provisions.~~*
 - (2) *Unless previously released or entitled to an earlier parole consideration hearing pursuant to other statutory provisions or court orders, Aan ~~person-inmate~~ who was convicted of a controlling offense that was committed before the ~~person-inmate~~ had attained 23 years of age and for which the sentence is a life term of less than 25 years to life shall be eligible for release on parole ~~by the board during~~ **following completion of** his or her 20th year of incarceration **upon being granted parole by the board pursuant to paragraph (1) of subdivision (b) of section 3041 at a youth offender parole hearing** ~~at a youth offender parole hearing, unless previously released or entitled to an earlier parole consideration hearing pursuant to other statutory provisions.~~*
 - (3) *Unless previously released or entitled to an earlier parole consideration hearing pursuant to other statutory provisions or court orders, Aan ~~person-inmate~~ who was*

convicted of a controlling offense that was committed before the ~~person~~*inmate* had attained 23 years of age and for which the sentence is a life term of 25 years to life shall be eligible for release on parole ~~by the board during~~*following completion of his or her 25th year of incarceration upon being granted parole by the board pursuant to paragraph (1) of subdivision (b) of section 3041 at a youth offender parole hearing*~~at a youth offender parole hearing, unless previously released or entitled to an earlier parole consideration hearing pursuant to other statutory provisions.~~

The following amendment will make it clear that the Parole Board does not have to have a hearing for a determinately sentenced inmate who would be released soon anyway:

- Page 2 between lines 29 and 30 insert:
(4) This section shall not apply to an inmate serving a determinate sentence if he or she will be released by operation of law pursuant to his or her determinate term less than 180 days from his scheduled hearing date.

-- END --