

AMENDED IN SENATE MAY 13, 2014

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1276

Introduced by Assembly Member Bloom

February 22, 2013

An act to add Section ~~3051~~ 2905 to the Penal Code, relating to ~~parole~~ youth offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1276, as amended, Bloom. ~~Parole: juvenile offenders. Youth offenders: security placement.~~

Existing law begins the term of imprisonment upon the actual delivery of a defendant into the custody of the Secretary of the Department of Corrections and Rehabilitation and requires the place of reception to be an institution under the direction of the Secretary. Existing regulations require that an inmate be assigned to a facility with a security level which corresponds to specified placement score ranges and establishes classification committees for making these determinations.

This bill would prohibit a youth offender, as defined, from being classified at the security level corresponding to his or her placement score if his or her in-custody behavior indicates he or she can be safely placed at a lower security level. The bill would require the department to conduct a youth offender Institutional Classification Committee review at reception to provide special classification consideration for every youth offender. The bill would require the department to house

a youth offender at a lower security level facility that corresponds with his or her placement score if the department determines that it can safely do so. The bill would require the department to place a youth offender in a housing placement that permits increased access to programs if the department determines that a youth offender is ready for that placement. The bill would require that a youth offender who is denied a lower security level and is placed in the highest security level to be eligible to have his or her placement reconsidered at his or her annual review until age 25. The bill would require the department to revise existing regulations and adopt new regulations pursuant to these provisions, as necessary.

~~Existing law generally regulates the granting and conditioning of parole, and places the duty to monitor parolees on the Department of Corrections and Rehabilitation, Division of Adult Parole Operations. Existing law specifies the procedures that the Board of Parole Hearings must follow in granting, denying, or revoking parole.~~

~~This bill would require, except as otherwise provided by law, a person who was convicted of a nonhomicide offense that was committed before the person had attained 18 years of age to be eligible for consideration for parole after serving 20 or 25 years in state prison, as specified. The bill would state that it is the intent of the Legislature to provide a meaningful opportunity to obtain release according to the standards set forth by the California Supreme Court in *People v. Caballero*.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (1) *As stated by the United States Supreme Court in *Miller v.**
- 4 *Alabama (2012) 132 S.Ct. 2455, “only a relatively small proportion*
- 5 *of adolescents” who engage in illegal activity “develop entrenched*
- 6 *patterns of problem behavior,” and “developments in psychology*
- 7 *and brain science continue to show fundamental differences*
- 8 *between juvenile and adult minds,” including “parts of the brain*
- 9 *involved in behavior control.”*
- 10 (2) *Important neurological and developmental changes are*
- 11 *occurring in people who are in their late teens through early*
- 12 *adulthood. The Legislature recognizes that these factors enhance*

1 *the prospect that, as development progresses and youth mature*
2 *into adults, these individuals can become contributing members*
3 *of society.*

4 *(3) One purpose of incarceration is rehabilitation, and young*
5 *adults can be especially influenced by positive or negative models.*

6 *(4) There are often negative influences at higher custody level*
7 *facilities. Amenable young adults incarcerated in state prisons*
8 *should have access to programs and living circumstances that*
9 *increase the likelihood of rehabilitation during these important*
10 *developmental stages.*

11 *(b) The purpose of this act is to establish a mechanism by which*
12 *the Department of Corrections and Rehabilitation will make*
13 *individual assessments of people entering prison under 22 years*
14 *of age and classify these individuals at lower custody level facilities*
15 *whenever possible.*

16 *SEC. 2. Section 2905 is added to the Penal Code, to read:*

17 *2905. (a) For purposes of this section, a “youth offender” is*
18 *an individual committed to the Department of Corrections and*
19 *Rehabilitation who is under 22 years of age.*

20 *(b) (1) The department shall conduct a youth offender Institution*
21 *Classification Committee review at reception to provide special*
22 *classification consideration for every youth offender. The youth*
23 *offender Institutional Classification Committee shall consist of the*
24 *staff required by department regulations at any Institutional*
25 *Classification Committee, however at least one member shall be*
26 *a department staff member specially trained in conducting the*
27 *reviews. Training shall include, but not be limited to, adolescent*
28 *and young adult development and evidence-based interviewing*
29 *processes employing positive and motivational techniques.*

30 *(2) The purpose of the youth offender Institutional Classification*
31 *Committee review is to meet with the youth offender and assess*
32 *the readiness of a youth offender for a lower security level or*
33 *placement permitting increased access to programs and to*
34 *encourage the youth offender to commit to positive change and*
35 *self-improvement. A youth offender shall not be classified at the*
36 *security level corresponding with his or her placement score if his*
37 *or her in-custody behavior indicates he or she can be safely placed*
38 *at a lower security level.*

39 *(c) A youthful offender shall be classified for placement at a*
40 *lower security level facility than corresponds with his or her*

1 *placement score or in a placement that permits increased access*
2 *to programs based on consideration of all of the following factors:*

3 *(1) Recent in-custody behavior while housed in juvenile or adult*
4 *facilities.*

5 *(2) Demonstrated efforts of progress toward self-improvement*
6 *in juvenile or adult facilities.*

7 *(3) Family or community ties supportive of rehabilitation.*

8 *(4) Evidence of commitment to working towards*
9 *self-improvement with a goal of being a law-abiding member of*
10 *society upon release.*

11 *(d) The department shall transfer a youth offender to a lower*
12 *security level facility if the department determines, based on the*
13 *totality of the circumstances, that the youth offender would not*
14 *increase the safety risk of the lower security level facility. If the*
15 *department determines a youth offender is ready for a housing*
16 *placement permitting increased access to programs, the youth*
17 *offender shall be transferred to that housing. If the youth offender*
18 *demonstrates he or she is a safety risk to inmates, staff, or the*
19 *public, and does not otherwise demonstrate a commitment to*
20 *rehabilitation, the youth offender shall be reclassified and placed*
21 *at a security level that is consistent with department regulations*
22 *and procedures.*

23 *(e) A youth offender who at his or her initial Youth Offender*
24 *Institutional Classification Committee review is denied a lower*
25 *security level than corresponds with his or her placement score*
26 *or did not qualify for placement permitting increased access to*
27 *programs due to previous incarceration history and was placed*
28 *in the highest security level shall nevertheless be eligible to have*
29 *his or her placement reconsidered pursuant to subdivisions (b) to*
30 *(d), inclusive, at his or her annual review until reaching 25 years*
31 *of age. If at an annual review it is determined that the youth*
32 *offender has had no serious rule violations for one year, the*
33 *department shall consider whether the youth would benefit from*
34 *placement in a lower level facility or placement permitting*
35 *increased access to programs.*

36 *(f) The department shall review and, as necessary, revise*
37 *existing regulations and adopt new regulations regarding*
38 *classification determinations made pursuant to this section, and*
39 *provide for training for staff.*

40 **SECTION 1.** ~~Section 3051 is added to the Penal Code, to read:~~

1 ~~3051. (a) Except as otherwise provided by law, a person who~~
2 ~~was convicted of a nonhomicide offense that was committed before~~
3 ~~the person had attained 18 years of age shall be eligible for~~
4 ~~consideration for parole pursuant to this article after serving 25~~
5 ~~years in state prison. However, if the person was sentenced to less~~
6 ~~than 40 years of imprisonment, the person shall be eligible for~~
7 ~~consideration for parole pursuant to this article after serving 20~~
8 ~~years in state prison. Subsequent parole hearings shall be set~~
9 ~~according to Section 3041.5.~~

10 ~~(b) It is the intent of the Legislature to provide a meaningful~~
11 ~~opportunity to obtain release according to the standards set forth~~
12 ~~by the California Supreme Court in People v. Caballero (2012) 55~~
13 ~~Cal.4th 262.~~

14 ~~(c) This section does not prohibit the imposition of a life~~
15 ~~sentence for juveniles convicted of homicide and does not prohibit~~
16 ~~or modify the parole procedures for adult offenders. This section~~
17 ~~does not limit the access of juvenile offenders to other programs~~
18 ~~and appeals that they were eligible for prior to the enactment of~~
19 ~~this section.~~