

AMENDED IN ASSEMBLY AUGUST 12, 2013

AMENDED IN ASSEMBLY JUNE 27, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE APRIL 4, 2013

AMENDED IN SENATE MARCH 18, 2013

SENATE BILL

No. 260

Introduced by Senator Hancock
(Coauthors: Senators De León, Lara, and Steinberg)
(Coauthor: Assembly Member Hall)
(Principal coauthor: Assembly Member Bloom)
(Coauthors: Assembly Members Hall and Ting)

February 13, 2013

An act to *amend Sections 3041, 3046, and 4801 of, and to add Sections Section 3051 and 3051.1 to to*, the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

SB 260, as amended, Hancock. ~~Youth opportunity review offender parole~~ *hearings*.

Existing law provides that the Secretary of the Department of Corrections and Rehabilitation or the Board of Parole Hearings, or both, may, for specified reasons, recommend to the court that a prisoner's sentence be recalled, and that a court may recall a prisoner's sentence. When a defendant who was under 18 years of age at the time of the commission of a crime has served at least 15 years of his or her sentence, existing law allows the defendant to submit a petition for recall and resentencing, and authorizes the court, in its discretion, to recall the

sentence and to resentence the defendant, provided that the new sentence is not greater than the initial sentence.

This bill would require the Board of Parole Hearings to conduct a youth ~~opportunity review~~ *offender parole* hearing to consider release of offenders who committed specified crimes prior to being 18 years of age and who were sentenced to state prison ~~and~~. *The bill would require parole consideration to be given during the 15th year of incarceration if the person meeting these criteria received a determinate sentence, during the 20th year if the person received a sentence that was less than 25 years to life, and during the 25th year of incarceration if the person received a sentence that was 25 years to life. The bill would require the board, in reviewing a prisoner's suitability for parole, to give great weight to specified mitigating factors, including fundamental differences between juveniles and adults, and a juvenile's diminished culpability as compared to that of an adult the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner in accordance with relevant case law. The bill would require that, in assessing growth and maturity, psychological evaluations and risk assessment instruments, if used by the board, be administered by qualified professionals and provide reliable assessment of growth and maturity, and would require that licensed psychologists employed by the board and take into consideration the diminished culpability of juveniles as compared to that of adults, the hallmark features of youth, and any subsequent growth and increased maturity of the individual. The bill would permit family members, friends, school personnel, faith leaders, and representatives from community-based programs organizations with knowledge about the young person at the time of prior to the crime or his or hers her growth and maturity in prison since the commission of the crime to be permitted to attend and testify at the youth opportunity review hearing. submit statements for review by the board and would permit the individual to designate one person to attend the youth offender parole hearing and read a brief statement.*

Existing law requires the board to meet with each inmate sentenced pursuant to certain provisions of law during his or her 3rd year of incarceration for the purpose of reviewing his or her file, making recommendations, and documenting activities and conduct pertinent to granting or withholding postconviction credit.

This bill would instead require the board to meet with those inmates, including those who are eligible to be considered for parole pursuant

to a youth offender parole hearing, during the 6th year prior to the inmate's minimum eligible parole release date. The bill would also require the board to provide an inmate additional, specified information during this consultation, including individualized recommendations regarding the inmate's work assignments, rehabilitative programs, and institutional behavior; and to provide those findings and recommendations, in writing, to the inmate within 30 days following the consultation.

Existing law, also added by Proposition 8, adopted June 8, 1982, and amended by Proposition 36, adopted November 6, 2012, commonly known as the Three Strikes ~~Law~~, law, requires increased penalties for certain recidivist offenders in addition to any other enhancement or penalty provisions that may apply, including individuals with current and prior convictions of a serious felony, as specified.

This bill would exempt from its provisions inmates who were sentenced pursuant to the Three Strikes ~~Law~~: law or sentenced to life in prison without the possibility of parole.

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. The Legislature finds and declares that, as stated
2 by the United States Supreme Court in *Miller v. Alabama (2012)*
3 *183 L.Ed.2d 407*, “only a relatively small proportion of
4 adolescents” who engage in illegal activity “develop entrenched
5 patterns of problem behavior,” and that “developments in
6 psychology and brain science continue to show fundamental
7 differences between juvenile and adult minds,” including “parts
8 of the brain involved in behavior control.” The Legislature
9 recognizes that youthfulness both lessens a juvenile’s moral
10 culpability and enhances the prospect that, as a youth matures into
11 an adult and neurological development occurs, these individuals
12 can become contributing members of society. *The purpose of this*
13 *act is to establish a parole eligibility mechanism that provides a*
14 *person serving a sentence for crimes that he or she committed as*
15 *a juvenile the opportunity to obtain release when he or she has*
16 *shown that he or she has been rehabilitated and gained maturity,*
17 *in accordance with the decision of the California Supreme Court*
18 *in People v. Caballero (2012) 55 Cal.4th 262 and the decisions*

1 *of the United States Supreme Court in Graham v. Florida (2010)*
2 *560 U.S. 48, and Miller v. Alabama (2012) 183 L.Ed.2d 407.*
3 *Nothing in this act is intended to undermine the California Supreme*
4 *Court's holdings in In re Shaputis (2011) 53 Cal.4th 192, In re*
5 *Lawrence (2008) 44 Cal.4th 1181, and subsequent cases. It is the*
6 *intent of the Legislature to create a process by which growth and*
7 *maturity of youthful offenders can be assessed and a meaningful*
8 *opportunity for release established.*

9 *SEC. 2. Section 3041 of the Penal Code is amended to read:*

10 3041. (a) In the case of any inmate sentenced pursuant to any
11 ~~provision of law, other than Chapter 4.5 (commencing with Section~~
12 ~~1170) of Title 7 of Part 2, the Board of Parole Hearings shall meet~~
13 ~~with each inmate during the third year of incarceration~~ *sixth year*
14 *prior to the inmate's minimum eligible parole release date for the*
15 *purposes of reviewing the inmate's file, making recommendations,*
16 ~~and documenting activities and conduct pertinent to granting or~~
17 ~~withholding postconviction credit.~~ *and documenting the inmate's*
18 *activities and conduct pertinent to both parole eligibility and to*
19 *the granting or withholding of postconviction credit. During this*
20 *consultation, the board shall provide the inmate information about*
21 *the parole hearing process, legal factors relevant to his or her*
22 *suitability or unsuitability for parole, and individualized*
23 *recommendations for the inmate regarding his or her work*
24 *assignments, rehabilitative programs, and institutional behavior.*
25 *Within 30 days following the consultation, the board shall issue*
26 *its positive and negative findings and recommendations to the*
27 *inmate in writing. One year prior to the inmate's minimum eligible*
28 *parole release date a panel of two or more commissioners or deputy*
29 *commissioners shall again meet with the inmate and shall normally*
30 *set a parole release date as provided in Section 3041.5. No more*
31 *than one member of the panel shall be a deputy commissioner. In*
32 *the event of a tie vote, the matter shall be referred for an en banc*
33 *review of the record that was before the panel that rendered the*
34 *tie vote. Upon en banc review, the board shall vote to either grant*
35 *or deny parole and render a statement of decision. The en banc*
36 *review shall be conducted pursuant to subdivision (e). The release*
37 *date shall be set in a manner that will provide uniform terms for*
38 *offenses of similar gravity and magnitude with respect to their*
39 *threat to the public, and that will comply with the sentencing rules*
40 *that the Judicial Council may issue and any sentencing information*

1 relevant to the setting of parole release dates. The board shall
2 establish criteria for the setting of parole release dates and in doing
3 so shall consider the number of victims of the crime for which the
4 inmate was sentenced and other factors in mitigation or aggravation
5 of the crime. At least one commissioner of the panel shall have
6 been present at the last preceding meeting, unless it is not feasible
7 to do so or where the last preceding meeting was the initial
8 meeting. Any person on the hearing panel may request review of
9 any decision regarding parole for an en banc hearing by the board.
10 In case of a review, a majority vote in favor of parole by the board
11 members participating in an en banc review is required to grant
12 parole to any inmate.

13 (b) The panel or the board, sitting en banc, shall set a release
14 date unless it determines that the gravity of the current convicted
15 offense or offenses, or the timing and gravity of current or past
16 convicted offense or offenses, is such that consideration of the
17 public safety requires a more lengthy period of incarceration for
18 this individual, and that a parole date, therefore, cannot be fixed
19 at this meeting. After the effective date of this subdivision, any
20 decision of the parole panel finding an inmate suitable for parole
21 shall become final within 120 days of the date of the hearing.
22 During that period, the board may review the panel's decision.
23 The panel's decision shall become final pursuant to this subdivision
24 unless the board finds that the panel made an error of law, or that
25 the panel's decision was based on an error of fact, or that new
26 information should be presented to the board, any of which when
27 corrected or considered by the board has a substantial likelihood
28 of resulting in a substantially different decision upon a rehearing.
29 In making this determination, the board shall consult with the
30 commissioners who conducted the parole consideration hearing.
31 No decision of the parole panel shall be disapproved and referred
32 for rehearing except by a majority vote of the board, sitting en
33 banc, following a public meeting.

34 (c) For the purpose of reviewing the suitability for parole of
35 those inmates eligible for parole under prior law at a date earlier
36 than that calculated under Section 1170.2, the board shall appoint
37 panels of at least two persons to meet annually with each inmate
38 until the time the person is released pursuant to proceedings or
39 reaches the expiration of his or her term as calculated under Section
40 1170.2.

1 (d) It is the intent of the Legislature that, during times when
2 there is no backlog of inmates awaiting parole hearings, life parole
3 consideration hearings, or life rescission hearings, hearings will
4 be conducted by a panel of three or more members, the majority
5 of whom shall be commissioners. The board shall report monthly
6 on the number of cases where an inmate has not received a
7 completed initial or subsequent parole consideration hearing within
8 30 days of the hearing date required by subdivision (a) of Section
9 3041.5 or paragraph (2) of subdivision (b) of Section 3041.5, unless
10 the inmate has waived the right to those timeframes. That report
11 shall be considered the backlog of cases for purposes of this
12 section, and shall include information on the progress toward
13 eliminating the backlog, and on the number of inmates who have
14 waived their right to the above timeframes. The report shall be
15 made public at a regularly scheduled meeting of the board and a
16 written report shall be made available to the public and transmitted
17 to the Legislature quarterly.

18 (e) For purposes of this section, an en banc review by the board
19 means a review conducted by a majority of commissioners holding
20 office on the date the matter is heard by the board. An en banc
21 review shall be conducted in compliance with the following:

22 (1) The commissioners conducting the review shall consider
23 the entire record of the hearing that resulted in the tie vote.

24 (2) The review shall be limited to the record of the hearing. The
25 record shall consist of the transcript or audiotape of the hearing,
26 written or electronically recorded statements actually considered
27 by the panel that produced the tie vote, and any other material
28 actually considered by the panel. New evidence or comments shall
29 not be considered in the en banc proceeding.

30 (3) The board shall separately state reasons for its decision to
31 grant or deny parole.

32 (4) A commissioner who was involved in the tie vote shall be
33 recused from consideration of the matter in the en banc review.

34 *SEC. 3. Section 3046 of the Penal Code is amended to read:*

35 3046. (a) No prisoner imprisoned under a life sentence may
36 be paroled until he or she has served the greater of the following:

37 (1) A term of at least seven calendar years.

38 (2) A term as established pursuant to any other provision of law
39 that establishes a minimum term or minimum period of
40 confinement under a life sentence before eligibility for parole.

1 (b) If two or more life sentences are ordered to run consecutively
2 to each other pursuant to Section 669, no prisoner so imprisoned
3 may be paroled until he or she has served the term specified in
4 subdivision (a) on each of the life sentences that are ordered to run
5 consecutively.

6 (c) *Notwithstanding subdivisions (a) and (b), a prisoner found*
7 *suitable for parole pursuant to a youth offender parole hearing*
8 *as described in Section 3051 shall be paroled regardless of the*
9 *manner in which the board set release dates pursuant to*
10 *subdivision (a) of Section 3041, subject to subdivision (b) of Section*
11 *3041 and Sections 3041.1 and 3041.2, as applicable.*

12 (e)

13 (d) The Board of Prison Terms shall, in considering a parole
14 for a prisoner, consider all statements and recommendations which
15 may have been submitted by the judge, district attorney, and sheriff,
16 pursuant to Section 1203.01, or in response to notices given under
17 Section 3042, and recommendations of other persons interested
18 in the granting or denying of the parole. The board shall enter on
19 its order granting or denying parole to these prisoners, the fact that
20 the statements and recommendations have been considered by it.

21 ~~SEC. 2.~~

22 SEC. 4. Section 3051 is added to the Penal Code, to read:

23 3051. (a) (1) *A youth offender parole hearing is a hearing by*
24 *the Board of Parole Hearings for the purpose of reviewing the*
25 *parole suitability of any prisoner who was under 18 years of age*
26 *at the time of his or her controlling offense.*

27 (2) *For the purposes of this section, the following definitions*
28 *shall apply:*

29 (A) *“Incarceration” means detention in a city or county jail, a*
30 *local juvenile facility, a mental health facility, a Division of*
31 *Juvenile Justice facility, or a Department of Corrections and*
32 *Rehabilitation facility.*

33 (B) *“Controlling offense” means the offense or enhancement*
34 *for which the sentencing court imposed the longest term of*
35 *imprisonment.*

36 (b) (1) ~~A person who was convicted of a nonhomicide offense,~~
37 ~~attempted murder, conspiracy to commit murder, or manslaughter~~
38 ~~controlling offense that was committed before the person had~~
39 ~~attained 18 years of age and was sentenced to state prison for a~~
40 ~~determinate term of 40 years or less, or an indeterminate term with~~

1 ~~a base term of 40 years or less, for which the sentence is a~~
2 ~~determinate sentence shall be considered for release on parole at~~
3 ~~a youth offender parole hearing by the board during his or her~~
4 ~~15th year of incarceration at a youth opportunity review hearing.~~
5 ~~incarceration, unless previously released pursuant to other~~
6 ~~statutory provisions.~~

7 ~~(b) A person who was convicted of a nonhomicide offense,~~
8 ~~attempted murder, conspiracy to commit murder, or manslaughter~~
9 ~~that was committed before the person had attained 18 years of age~~
10 ~~and was sentenced to state prison for a determinate term of more~~
11 ~~than 40 years, or an indeterminate term with a base term of more~~
12 ~~than 40 years, shall be considered for release on parole during his~~
13 ~~or her 20th year of incarceration at a youth opportunity review~~
14 ~~hearing.~~

15 ~~(2) A person who was convicted of a controlling offense that~~
16 ~~was committed before the person had attained 18 years of age and~~
17 ~~for which the sentence is a life term of less than 25 years to life~~
18 ~~shall be considered for release on parole by the board during his~~
19 ~~or her 20th year of incarceration at a youth offender parole~~
20 ~~hearing, unless previously released or entitled to an earlier parole~~
21 ~~consideration hearing pursuant to other statutory provisions.~~

22 ~~(3) A person who was convicted of a controlling offense that~~
23 ~~was committed before the person had attained 18 years of age and~~
24 ~~for which the sentence is a life term of 25 years to life shall be~~
25 ~~considered for release on parole by the board during his or her~~
26 ~~25th year of incarceration at a youth offender parole hearing,~~
27 ~~unless previously released or entitled to an earlier parole~~
28 ~~consideration hearing pursuant to other statutory provisions.~~

29 ~~(c) Five years prior to eligibility for release, an~~ ~~An individual~~
30 ~~subject to this section shall meet with a commissioner of the Board~~
31 ~~of Parole Hearings for consultation and direction on his or her~~
32 ~~progress toward parole suitability. During the meeting, the Board~~
33 ~~of Parole Hearings shall provide the individual with information~~
34 ~~on the parole process and the factors relevant to a suitability~~
35 ~~determination in a youth opportunity review hearing. Within 30~~
36 ~~days of the meeting, the Board of Parole Hearings shall issue~~
37 ~~written recommendations to the individual identifying any issues~~
38 ~~that the individual will need to address prior to being found suitable~~
39 ~~for release through a youth opportunity review hearing and~~

1 ~~guidance on how to successfully address those issues. the board~~
2 ~~pursuant to subdivision (a) of Section 3041.~~

3 (d) ~~The Board of Parole Hearings board shall conduct a youth~~
4 ~~opportunity review offender parole hearing to consider release.~~
5 ~~At the youth opportunity review offender parole hearing, the board~~
6 ~~shall normally release the individual on parole as provided in~~
7 ~~Section 3041, except that the individual shall be released on parole~~
8 ~~based on the individual's eligibility for parole as set forth in~~
9 ~~subdivision (a) or (b). The board shall give great weight to the~~
10 ~~mitigating factors set forth in subdivision (e), shall not rely on~~
11 ~~Section 2282 or 2403 of Title 15 of the California Code of~~
12 ~~Regulations, and to the extent that any existing suitability or~~
13 ~~unsuitability criteria are in conflict with those mitigating factors,~~
14 ~~the mitigating factors shall prevail. Parole shall be for a period to~~
15 ~~be determined by the Board of Parole Hearings, but not to exceed~~
16 ~~10 years unless a longer parole period is otherwise provided for~~
17 ~~by law. board shall act in accordance with subdivision (c) of~~
18 ~~Section 4801.~~

19 (e) ~~The youth opportunity review offender parole hearing to~~
20 ~~consider release shall provide for a meaningful opportunity to~~
21 ~~obtain release based on demonstrated growth and maturity. The~~
22 ~~review process shall consider all mitigating circumstances attendant~~
23 ~~in the juveniles crime and life, including, but not limited to, all of~~
24 ~~the following: release. The board shall review and, as necessary,~~
25 ~~revise existing regulations and adopt new regulations regarding~~
26 ~~determinations of suitability made pursuant to this section,~~
27 ~~subdivision (c) of Section 4801, and other related topics, consistent~~
28 ~~with relevant case law, in order to provide that meaningful~~
29 ~~opportunity for release.~~

30 (1) ~~The fundamental differences between juveniles and adults,~~
31 ~~and a juvenile's diminished culpability as compared to that of an~~
32 ~~adult.~~

33 (2) ~~The hallmark features of youthfulness, including, but not~~
34 ~~limited to, immaturity, impetuosity, susceptibility to peer pressure~~
35 ~~or the negative influence of older individuals, and the failure to~~
36 ~~appreciate risks and consequences.~~

37 (3) ~~Childhood trauma, including, but not limited to, extended~~
38 ~~exposure to violence, dysfunctional or chaotic family or home~~
39 ~~environment, and physical, sexual, or emotional abuse.~~

1 ~~(4) The juvenile's physical and mental development at the time~~
2 ~~of the offense and the impact of physical or mental impairments~~
3 ~~in combination with youthfulness.~~

4 ~~(5) Growth, maturity, and rehabilitation during incarceration~~
5 ~~and relative to the individual's age at the time of the offense, age~~
6 ~~when he or she entered prison, and his or her age at the time of the~~
7 ~~parole consideration hearing.~~

8 (f) *(1) In assessing growth and maturity, psychological*
9 *evaluations and risk assessment instruments, if used by the board,*
10 *shall be administered by qualified professionals, provide reliable*
11 *assessment of the growth and maturity of individuals who*
12 *committed a crime when they were under 18 years of age, and*
13 *include dynamic variables associated with growth and maturity.*
14 *Family licensed psychologists employed by the board and shall*
15 *take into consideration the diminished culpability of juveniles as*
16 *compared to that of adults, the hallmark features of youth, and*
17 *any subsequent growth and increased maturity of the individual.*

18 *(2) Family members, friends, school personnel, faith leaders,*
19 *and representatives from community-based programs organizations*
20 *with knowledge about the individual at the time of before the crime*
21 *or his or her growth and maturity in prison shall be permitted to*
22 *attend and testify at the youth opportunity review hearing. since*
23 *the time of the crime may submit statements for review by the*
24 *board.*

25 *(3) An individual subject to this section may designate one*
26 *person who may attend the youth offender parole hearing, if not*
27 *otherwise barred by law, regulation, or existing procedure from*
28 *the location of the hearing, who may read a brief statement.*

29 *(4) Nothing in this section is intended to alter the rights of*
30 *victims at a parole hearings.*

31 (g) *If parole is not granted, the board shall set the time for a*
32 *subsequent youth opportunity review offender parole hearing not*
33 *more than three years later, in accordance with paragraph (3) of*
34 *subdivision (b) of Section 3041.5, and shall use the factors in*
35 *subdivisions (e) to (g), inclusive. 3041.5. In exercising its*
36 *discretion pursuant to paragraph (4) of subdivision (b) and*
37 *subdivision (d) of Section 3041.5, the board shall consider the*
38 *factors in subdivision (c) of Section 4801. No subsequent youth*
39 *offender parole hearing shall be necessary if the offender is*

1 released pursuant to other statutory provisions prior to the date
2 of the subsequent hearing.

3 (h) ~~Crimes covered by this statute include all nonhomicide~~
4 ~~convictions, attempted murder, conspiracy to commit murder, and~~
5 ~~manslaughter. This section shall not apply to cases where in which~~
6 ~~sentencing occurs pursuant to the Three Strikes law or in which~~
7 ~~an individual was sentenced to life in prison without the possibility~~
8 ~~of parole. Years of incarceration are subject to applicable credit~~
9 ~~reductions in existing law.~~

10 (i) ~~The board shall complete all youth offender parole hearings~~
11 ~~for individuals who become entitled to have their parole suitability~~
12 ~~considered at a youth offender parole hearing on the effective date~~
13 ~~of this section by July 1, 2015.~~

14 SEC. 3. ~~Section 3051.1 is added to the Penal Code, to read:~~

15 3051.1. (a) ~~A person who was sentenced to state prison upon~~
16 ~~conviction for a homicide offense that was committed before the~~
17 ~~person had attained 18 years of age shall be eligible for review~~
18 ~~and release at a youth opportunity review hearing during his or~~
19 ~~her 15th year of incarceration if his or her primary offense was~~
20 ~~murder in the second degree, pursuant to Section 189.~~

21 (b) ~~A person who was sentenced to state prison upon conviction~~
22 ~~for a homicide offense that was committed before the person had~~
23 ~~attained 18 years of age shall be eligible for review at a youth~~
24 ~~opportunity review hearing during his or her 25th year of~~
25 ~~incarceration if his or her primary offense was murder in the first~~
26 ~~degree, pursuant to Section 189.~~

27 (c) ~~Five years prior to eligibility for release, an individual who~~
28 ~~is subject to this section shall meet with a commissioner of the~~
29 ~~Board of Parole Hearings for consultation and direction on his or~~
30 ~~her progress toward parole suitability. During the meeting, the~~
31 ~~Board of Parole Hearings shall provide the individual with~~
32 ~~information on the parole process and the factors relevant to a~~
33 ~~suitability determination in a youth opportunity review hearing.~~
34 ~~Within 30 days of the meeting, the Board of Parole Hearings shall~~
35 ~~issue written recommendations to the individual identifying any~~
36 ~~issues that the individual will need to address prior to being found~~
37 ~~suitable for release through a youth opportunity review hearing~~
38 ~~guidance on how to successfully address those issues.~~

39 (d) ~~The Board of Parole Hearings shall conduct a youth~~
40 ~~opportunity review hearing to consider release. At the youth~~

1 opportunity review hearing, the board shall normally release the
2 individual on parole as provided in Section 3041, except that the
3 individual shall be released on parole based on the individual's
4 eligibility for parole as set forth in subdivisions (a) and (b). The
5 board shall give great weight to the mitigating factors set forth in
6 subdivision (e), shall not rely on Section 2282 or 2403 of Title 15
7 of the California Code of Regulations, and to the extent that any
8 existing suitability or unsuitability criteria are in conflict with those
9 mitigating factors, the mitigating factors shall prevail. Parole shall
10 be for a period to be determined by the Board of Parole Hearings,
11 but not to exceed 10 years unless a longer parole period is
12 otherwise provided for by law subject to Section 3000.1.

13 (e) The youth opportunity review hearing to consider release
14 will provide for a meaningful opportunity to obtain release based
15 on demonstrated growth and maturity. The review process must
16 consider all mitigating circumstances attendant in the juveniles
17 crime and life, including, but not limited to, all of the following:

18 (1) The fundamental differences between juveniles and adults,
19 and a juvenile's diminished culpability as compared to that of an
20 adult.

21 (2) The hallmark features of youthfulness, including, but not
22 limited to, immaturity, impetuosity, susceptibility to peer pressure
23 or the negative influence of older individuals, and the failure to
24 appreciate risks and consequences.

25 (3) Childhood trauma, including, but not limited to, extended
26 exposure to violence, dysfunctional or chaotic family or home
27 environment, and physical, sexual, or emotional abuse.

28 (4) The juvenile's physical and mental development at the time
29 of the offense and the impact of physical or mental impairments
30 in combination with youthfulness.

31 (5) Growth, maturity, and rehabilitation during incarceration
32 and relative to the individual's age at the time of the offense, age
33 when he or she entered prison, and his or her age at the time of the
34 parole consideration hearing.

35 (f) In assessing growth and maturity, psychological evaluations
36 and risk assessment instruments, if used by the board, shall be
37 administered by qualified professionals, provide reliable assessment
38 of the growth and maturity of individuals who committed a crime
39 when they were under 18 years of age, and include dynamic
40 variables associated with growth and maturity. Family members,

1 ~~school personnel, faith leaders, and representatives from~~
2 ~~community-based programs with knowledge about the young~~
3 ~~person at the time of the crime or his or her growth and maturity~~
4 ~~in prison shall be permitted to attend and testify at the youth~~
5 ~~opportunity review hearing.~~

6 ~~(g) If parole is not granted, the board shall set the time for a~~
7 ~~subsequent youth opportunity review hearing not more than three~~
8 ~~years later, in accordance with Section 3041.5, and shall use the~~
9 ~~factors in subdivisions (d) to (f), inclusive.~~

10 ~~(h) Persons serving sentences under the Three Strikes law or~~
11 ~~for murder in the first degree with special circumstances cases~~
12 ~~under Section 190.5 are excluded. Years of incarceration are subject~~
13 ~~to applicable credit reductions in existing law.~~

14 *SEC. 5. Section 4801 of the Penal Code is amended to read:*

15 4801. (a) The Board of Parole Hearings may report to the
16 Governor, from time to time, the names of any and all persons
17 imprisoned in any state prison who, in its judgment, ought to have
18 a commutation of sentence or be pardoned and set at liberty on
19 account of good conduct, or unusual term of sentence, or any other
20 cause, including evidence of intimate partner battering and its
21 effects. For purposes of this section, “intimate partner battering
22 and its effects” may include evidence of the nature and effects of
23 physical, emotional, or mental abuse upon the beliefs, perceptions,
24 or behavior of victims of domestic violence where it appears the
25 criminal behavior was the result of that victimization.

26 (b) (1) ~~The Board of Parole Hearings, board,~~ in reviewing a
27 prisoner’s suitability for parole pursuant to Section 3041.5, shall
28 give great weight to any information or evidence that, at the time
29 of the commission of the crime, the prisoner had experienced
30 intimate partner battering, but was convicted of an offense that
31 occurred prior to August 29, 1996. The board shall state on the
32 record the information or evidence that it considered pursuant to
33 this subdivision, and the reasons for the parole decision. The board
34 shall annually report to the Legislature and the Governor on the
35 cases the board considered pursuant to this subdivision during the
36 previous year, including the board’s decisions and the specific and
37 detailed findings of its investigations of these cases.

38 (2) The report for the Legislature to be submitted pursuant to
39 paragraph (1) shall be submitted pursuant to Section 9795 of the
40 Government Code.

1 (3) The fact that a prisoner has presented evidence of intimate
2 partner battering cannot be used to support a finding that the
3 prisoner lacks insight into his or her crime and its causes.
4 (c) *When a prisoner committed his or her controlling offense,*
5 *as defined in subdivision (a) of Section 3051, prior to attaining*
6 *18 years of age, the board, in reviewing a prisoner’s suitability*
7 *for parole pursuant to Section 3041.5, shall give great weight to*
8 *the diminished culpability of juveniles as compared to adults, the*
9 *hallmark features of youth, and any subsequent growth and*
10 *increased maturity of the prisoner in accordance with relevant*
11 *case law.*