

**Introduced by Senator Hancock**

February 18, 2015

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An act to amend ~~Section 6250.5~~ *Sections 3051 and 4801* of the Penal Code, relating to ~~corrections~~: *parole*.

LEGISLATIVE COUNSEL'S DIGEST

SB 261, as amended, Hancock. ~~Community correctional centers. Youth offender parole hearings.~~

*Existing law generally requires the Board of Parole Hearings to conduct youth offender parole hearings to consider the release of offenders who committed specified crimes when they were under 18 years of age and who were sentenced to state prison.*

*This bill would instead require 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 under 23 years of age. The bill would require the board to complete, by July 1, 2017, all youth offender parole hearings for individuals who become entitled to have their parole suitability considered at a youth offender parole hearing on the effective date of the bill.*

~~Existing law authorizes the Department of Corrections and Rehabilitation to contract for the establishment and operation of community correctional facilities that offer programs for the treatment of addiction to alcohol or controlled substances, based on the therapeutic community model, under certain conditions. Existing law requires each facility under contract to provide programs that prepare each inmate for successful reintegration into society.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

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

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

1     SECTION 1. Section 3051 of the Penal Code is amended to  
2 read:

3     3051. (a) (1) A youth offender parole hearing is a hearing by  
4 the Board of Parole Hearings for the purpose of reviewing the  
5 parole suitability of any prisoner who was under ~~18~~ 23 years of  
6 age at the time of his or her controlling offense.

7     (2) For the purposes of this section, the following definitions  
8 shall apply:

9     (A) "Incarceration" means detention in a city or county jail, a  
10 local juvenile facility, a mental health facility, a Division of  
11 Juvenile Justice facility, or a Department of Corrections and  
12 Rehabilitation facility.

13     (B) "Controlling offense" means the offense or enhancement  
14 for which any sentencing court imposed the longest term of  
15 imprisonment.

16     (b) (1) A person who was convicted of a controlling offense  
17 that was committed before the person had attained ~~18~~ 23 years of  
18 age and for which the sentence is a determinate sentence shall be  
19 eligible for release on parole at a youth offender parole hearing  
20 by the board during his or her 15th year of incarceration, unless  
21 previously released pursuant to other statutory provisions.

22     (2) A person who was convicted of a controlling offense that  
23 was committed before the person had attained ~~18~~ 23 years of age  
24 and for which the sentence is a life term of less than 25 years to  
25 life shall be eligible for release on parole by the board during his  
26 or her 20th 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     (3) A person who was convicted of a controlling offense that  
30 was committed before the person had attained ~~18~~ 23 years of age  
31 and for which the sentence is a life term of 25 years to life shall  
32 be eligible for release on parole by the board during his or her 25th  
33 year of incarceration at a youth offender parole hearing, unless

1 previously released or entitled to an earlier parole consideration  
2 hearing pursuant to other statutory provisions.

3 (c) An individual subject to this section shall meet with the  
4 board pursuant to subdivision (a) of Section 3041.

5 (d) The board shall conduct a youth offender parole hearing to  
6 consider release. At the youth offender parole hearing, the board  
7 shall release the individual on parole as provided in Section 3041,  
8 except that the board shall act in accordance with subdivision (c)  
9 of Section 4801.

10 (e) The youth offender parole hearing to consider release shall  
11 provide for a meaningful opportunity to obtain release. The board  
12 shall review and, as necessary, revise existing regulations and  
13 adopt new regulations regarding determinations of suitability made  
14 pursuant to this section, subdivision (c) of Section 4801, and other  
15 related topics, consistent with relevant case law, in order to provide  
16 that meaningful opportunity for release.

17 (f) (1) In assessing growth and maturity, psychological  
18 evaluations and risk assessment instruments, if used by the board,  
19 shall be administered by licensed psychologists employed by the  
20 board and shall take into consideration the diminished culpability  
21 of juveniles as compared to that of adults, the hallmark features  
22 of youth, and any subsequent growth and increased maturity of  
23 the individual.

24 (2) Family members, friends, school personnel, faith leaders,  
25 and representatives from community-based organizations with  
26 knowledge about the individual before the crime or his or her  
27 growth and maturity since the time of the crime may submit  
28 statements for review by the board.

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

31 (g) If parole is not granted, the board shall set the time for a  
32 subsequent youth offender parole hearing in accordance with  
33 paragraph (3) of subdivision (b) of Section 3041.5. In exercising  
34 its discretion pursuant to paragraph (4) of subdivision (b) and  
35 subdivision (d) of Section 3041.5, the board shall consider the  
36 factors in subdivision (c) of Section 4801. No subsequent youth  
37 offender parole hearing shall be necessary if the offender is released  
38 pursuant to other statutory provisions prior to the date of the  
39 subsequent hearing.

1 (h) This section shall not apply to cases in which sentencing  
2 occurs pursuant to Section 1170.12, subdivisions (b) to (i),  
3 inclusive, of Section 667, or Section 667.61, or in which an  
4 individual was sentenced to life in prison without the possibility  
5 of parole. This section shall not apply to an individual to whom  
6 this section would otherwise apply, but who, subsequent to  
7 attaining ~~18~~ 23 years of age, commits an additional crime for which  
8 malice aforethought is a necessary element of the crime or for  
9 which the individual is sentenced to life in prison.

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

14 (2) *The board shall complete all youth offender parole hearings*  
15 *for individuals who become entitled to have their parole suitability*  
16 *considered at a youth offender parole hearing on the effective date*  
17 *of the act that added this paragraph by July 1, 2017.*

18 SEC. 2. Section 4801 of the Penal Code is amended to read:

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

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

1 the board's decisions and the specific and detailed findings of its  
2 investigations of these cases.

3 (2) The report for the Legislature to be submitted pursuant to  
4 paragraph (1) shall be submitted pursuant to Section 9795 of the  
5 Government Code.

6 (3) The fact that a prisoner has presented evidence of intimate  
7 partner battering cannot be used to support a finding that the  
8 prisoner lacks insight into his or her crime and its causes.

9 (c) When a prisoner committed his or her controlling offense,  
10 as defined in subdivision (a) of Section 3051, prior to attaining  
11 23 years of age, the board, in reviewing a prisoner's suitability for  
12 parole pursuant to Section 3041.5, shall give great weight to the  
13 diminished culpability of juveniles as compared to adults, the  
14 hallmark features of youth, and any subsequent growth and  
15 increased maturity of the prisoner in accordance with relevant case  
16 law.

17 ~~SECTION 1. Section 6250.5 of the Penal Code is amended to~~  
18 ~~read:~~

19 ~~6250.5. (a) The Secretary of the Department of Corrections~~  
20 ~~and Rehabilitation may contract for the establishment and operation~~  
21 ~~of community correctional facilities that offer programs for the~~  
22 ~~treatment of addiction to alcohol or controlled substances based~~  
23 ~~on the therapeutic community model, only if the cost per inmate~~  
24 ~~of operating the facilities will be less than the cost per inmate of~~  
25 ~~operating similar state facilities. The Legislature finds and declares~~  
26 ~~that the purpose of a therapeutic community program, which~~  
27 ~~emphasizes alcohol and controlled substance rehabilitation, is to~~  
28 ~~substantially increase the likelihood of successful parole for those~~  
29 ~~inmates.~~

30 ~~(b) Each facility under contract pursuant to this section shall~~  
31 ~~provide programs that prepare each inmate for successful~~  
32 ~~reintegration into society. Those programs shall involve constant~~  
33 ~~counseling in drug and alcohol abuse, employment skills, victim~~  
34 ~~awareness, and family responsibility, and generally shall prepare~~  
35 ~~each inmate for return to society. The programs also shall~~  
36 ~~emphasize literacy training and use computer-supported training~~  
37 ~~so that inmates may improve their reading and writing skills. The~~  
38 ~~program shall include postincarceration counseling and care in~~  
39 ~~order to ensure a greater opportunity for success.~~

1     ~~(e) The department may enter into a long-term agreement, not~~  
2 ~~to exceed 20 years, for transfer of prisoners to, or placement of~~  
3 ~~prisoners in, facilities under contract pursuant to this section.~~  
4     ~~(d) The department shall provide for the review of an agreement~~  
5 ~~entered into under this section to determine if the contractor is in~~  
6 ~~compliance with the terms of this section. The review shall be~~  
7 ~~conducted at least every five years. The department may revoke~~  
8 ~~any agreement if the contractor is not in compliance with this~~  
9 ~~section.~~  
10     ~~(e) Notwithstanding the Public Contract Code or Article 10~~  
11 ~~(commencing with Section 1200) of Title 15 of the California Code~~  
12 ~~of Regulations, the Department of Corrections and Rehabilitation~~  
13 ~~shall select an independent contractor to conduct an annual audit~~  
14 ~~and cost comparison evaluation of any programs established under~~  
15 ~~this section. A contract for annual audits and evaluation shall~~  
16 ~~provide that the annual report, whether in final or draft form, and~~  
17 ~~all working papers and data, shall be available for immediate~~  
18 ~~review upon request by the department.~~