

AMENDED IN SENATE JUNE 1, 2015
AMENDED IN SENATE MARCH 24, 2015

SENATE BILL

No. 261

Introduced by Senator Hancock

February 18, 2015

An act to amend Sections 3051 and 4801 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

SB 261, as amended, Hancock. 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 were sentenced to indeterminate life terms* who become entitled to have their parole suitability considered at a youth offender parole hearing on the effective date of the bill. *The bill would require the board to complete all youth offender parole hearings for individuals who were sentenced to determinate terms who become entitled to have their parole suitability considered at a youth offender parole hearing on the effective date of the bill by July 1, 2021, and would require the board, for these individuals, to conduct a specified consultation before July 1, 2017.*

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. 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 23 years of age
6 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 23 years of age
18 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 23 years of age and
24 for which the sentence is a life term of less than 25 years to life
25 shall be eligible for release on parole by the board during his or
26 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 23 years of age and
31 for which the sentence is a life term of 25 years to life shall be
32 eligible for release on parole by the board during his or her 25th
33 year of incarceration at a youth offender parole hearing, unless
34 previously released or entitled to an earlier parole consideration
35 hearing pursuant to other statutory provisions.

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

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

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

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

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

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

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

36 (h) This section shall not apply to cases in which sentencing
37 occurs pursuant to Section 1170.12, subdivisions (b) to (i),
38 inclusive, of Section 667, or Section 667.61, or in which an
39 individual was sentenced to life in prison without the possibility
40 of parole. This section shall not apply to an individual to whom

1 this section would otherwise apply, but who, subsequent to
2 attaining 23 years of age, commits an additional crime for which
3 malice aforethought is a necessary element of the crime or for
4 which the individual is sentenced to life in prison.

5 (i) (1) The board shall complete all youth offender parole
6 hearings for individuals who ~~become~~ *became* entitled to have their
7 parole suitability considered at a youth offender parole hearing ~~on~~
8 ~~the effective date of this section~~ *prior to the effective date of the*
9 *act that added paragraph (2) by July 1, 2015.*

10 (2) (A) The board shall complete all youth offender parole
11 hearings for individuals *who were sentenced to indeterminate life*
12 *terms and* who become entitled to have their parole suitability
13 considered at a youth offender parole hearing on the effective date
14 of the act that added this paragraph by July 1, 2017.

15 (B) *The board shall complete all youth offender parole hearings*
16 *for individuals who were sentenced to determinate terms and who*
17 *become entitled to have their parole suitability considered at a*
18 *youth offender parole hearing on the effective date of the act that*
19 *added this paragraph by July 1, 2021. The board shall, for all*
20 *individuals described in this subparagraph, conduct the*
21 *consultation described in subdivision (a) of Section 3041 before*
22 *July 1, 2017.*

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

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

35 (b) (1) The board, in reviewing a prisoner’s suitability for parole
36 pursuant to Section 3041.5, shall give great weight to any
37 information or evidence that, at the time of the commission of the
38 crime, the prisoner had experienced intimate partner battering, but
39 was convicted of an offense that occurred prior to August 29, 1996.
40 The board shall state on the record the information or evidence

1 that it considered pursuant to this subdivision, and the reasons for
2 the parole decision. The board shall annually report to the
3 Legislature and the Governor on the cases the board considered
4 pursuant to this subdivision during the previous year, including
5 the board's decisions and the specific and detailed findings of its
6 investigations of these cases.

7 (2) The report for the Legislature to be submitted pursuant to
8 paragraph (1) shall be submitted pursuant to Section 9795 of the
9 Government Code.

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

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