

**Introduced by Senator Hancock**

February 16, 2016

---

---

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1070, as introduced, Hancock. Youth offender parole hearings.

Existing law 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 under 23 years of age. Existing law requires the board to complete, by July 1, 2017, all youth offender parole hearings for individuals who were sentenced to indeterminate life terms, as specified. Existing law requires the board to complete, by July 1, 2021, all youth offender parole hearings for individuals who were sentenced to determinate terms, as specified.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
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.

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

3 (A) “Incarceration” means detention in a city or county jail, a  
4 local juvenile facility, a mental health facility, a Division of  
5 Juvenile Justice facility, or a Department of Corrections and  
6 Rehabilitation facility.

7 (B) “Controlling offense” means the offense ~~or enhancement~~  
8 for which any sentencing court imposed the longest term of  
9 imprisonment.

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

16 (2) A person who was convicted of a controlling offense that  
17 was committed before the person had attained 23 years of age and  
18 for which the sentence is a life term of less than 25 years to life  
19 shall be eligible for release on parole by the board during his or  
20 her 20th year of incarceration at a youth offender parole hearing,  
21 unless previously released or entitled to an earlier parole  
22 consideration hearing pursuant to other statutory provisions.

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

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

32 (d) The board shall conduct a youth offender parole hearing to  
33 consider release. At the youth offender parole hearing, the board  
34 shall release the individual on parole as provided in Section 3041,  
35 except that the board shall act in accordance with subdivision (c)  
36 of Section 4801.

37 (e) The youth offender parole hearing to consider release shall  
38 provide for a meaningful opportunity to obtain release. The board  
39 shall review and, as necessary, revise existing regulations and  
40 adopt new regulations regarding determinations of suitability made

1 pursuant to this section, subdivision (c) of Section 4801, and other  
2 related topics, consistent with relevant case law, in order to provide  
3 that meaningful opportunity for release.

4 (f) (1) In assessing growth and maturity, psychological  
5 evaluations and risk assessment instruments, if used by the board,  
6 shall be administered by licensed psychologists employed by the  
7 board and shall take into consideration the diminished culpability  
8 of ~~juveniles~~ *youth* as compared to that of adults, the hallmark  
9 features of youth, and any subsequent growth and increased  
10 maturity of the individual.

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

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

18 (g) If parole is not granted, the board shall set the time for a  
19 subsequent youth offender parole hearing in accordance with  
20 paragraph (3) of subdivision (b) of Section 3041.5. In exercising  
21 its discretion pursuant to paragraph (4) of subdivision (b) and  
22 subdivision (d) of Section 3041.5, the board shall consider the  
23 factors in subdivision (c) of Section 4801. No subsequent youth  
24 offender parole hearing shall be necessary if the offender is released  
25 pursuant to other statutory provisions prior to the date of the  
26 subsequent hearing.

27 (h) This section shall not apply to cases in which sentencing  
28 occurs pursuant to Section 1170.12, subdivisions (b) to (i),  
29 inclusive, of Section 667, or Section 667.61, or in which an  
30 individual was sentenced to life in prison without the possibility  
31 of parole. This section shall not apply to an individual to whom  
32 this section would otherwise apply, but who, subsequent to  
33 attaining 23 years of age, commits an additional crime for which  
34 malice aforethought is a necessary element of the crime or for  
35 which the individual is sentenced to life in prison.

36 (i) (1) The board shall complete all youth offender parole  
37 hearings for individuals who became entitled to have their parole  
38 suitability considered at a youth offender parole hearing prior to  
39 the effective date of the act that added paragraph (2) by July 1,  
40 2015.

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

6 (B) The board shall complete all youth offender parole hearings  
7 for individuals who were sentenced to determinate terms and who  
8 become entitled to have their parole suitability considered at a  
9 youth offender parole hearing on the effective date of the act that  
10 added this paragraph by July 1, 2021. The board shall, for all  
11 individuals described in this subparagraph, conduct the consultation  
12 described in subdivision (a) of Section 3041 before July 1, 2017.

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

14 4801. (a) The Board of Parole Hearings may report to the  
15 Governor, from time to time, the names of any and all persons  
16 imprisoned in any state prison who, in its judgment, ought to have  
17 a commutation of sentence or be pardoned and set at liberty on  
18 account of good conduct, or unusual term of sentence, or any other  
19 cause, including evidence of intimate partner battering and its  
20 effects. For purposes of this section, “intimate partner battering  
21 and its effects” may include evidence of the nature and effects of  
22 physical, emotional, or mental abuse upon the beliefs, perceptions,  
23 or behavior of victims of domestic violence if it appears the  
24 criminal behavior was the result of that victimization.

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

37 (2) The report for the Legislature to be submitted pursuant to  
38 paragraph (1) shall be submitted pursuant to Section 9795 of the  
39 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 23  
6 years of age, the board, in reviewing a prisoner's suitability for  
7 parole pursuant to Section 3041.5, shall give great weight to the  
8 diminished culpability of ~~juveniles~~ *youth* as compared to adults,  
9 the hallmark features of youth, and any subsequent growth and  
10 increased maturity of the prisoner in accordance with relevant case  
11 law.

O