



Overview of S.B. 260 (Hancock) Sentencing Review for Juveniles Tried as Adults in California

THE PROBLEM

California's prison system houses more than 6,000 people who were 14 to 17 years of age at the time of their offense. Many are serving sentences so long that, absent a change in the law, they would not qualify for parole during their expected lifetime.

The Supreme Court has recognized that "only a relatively small proportion of adolescents" who engage in illegal activity "develop entrenched patterns of problem behavior," and that "developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds," including "parts of the brain involved in behavior control." Youthfulness both lessens a juvenile's moral culpability and enhances the prospect that, as a youth matures into an adult and neurological development occurs, these individuals can become contributing members of society. (*Miller v. Alabama* (2012) 183 L.Ed.2d 407.)

Because of their lessened culpability and capacity for change both the United States Supreme Court and the California Supreme Court have called for juveniles tried as adults to be given the opportunity to obtain release upon a showing that they have been rehabilitated and gained maturity. (*People v. Caballero* (2012) 55 Cal.4th 262; *Graham v. Florida* (2010) 560 U.S. 48, and *Miller v. Alabama* (2012) 183 L.Ed.2d 407.)

However, until S.B. 260, California had no mechanism for providing the required review. As a result, youth challenging extremely long sentences were forced to litigate their right to review case by case in the courts. There were no guidelines to help courts to make the right decision, and no timelines as to when review should occur. There was no formal way for youth to know whether or when they qualified for review, or how to seek legal assistance.

S.B. 260 was introduced by Senator Loni Hancock and co-sponsored by Human Rights Watch, Youth Law Center, the Friends Committee on Legislation of California, and the Post-Conviction Justice Project of the University of Southern California. Supporters included a broad coalition of advocates, family members of victims, law professors, faith community leaders, and youth who have served time and their family members.

S.B. 260

S.B. 260 was signed into law by Governor Jerry Brown on September 16, 2013. It establishes a "youth offender parole hearing" mechanism for young people serving time for crimes committed as a juvenile. It provides a process by which growth and maturity of youth offenders can be assessed and a meaningful opportunity for release established.

The time of review depends on the “controlling offense” – that is, the offense or enhancement for which any sentencing court imposed the longest term of imprisonment. If the controlling offense is a determinate sentence, the person shall be eligible for release on parole during his or her 15th year of incarceration. If the controlling offense is a life term of less than 25 years to life the person shall be eligible for release on parole during his or her 20th year of incarceration. And if the controlling offense sentence is a life term of 25 years to life, the person shall be eligible for release on parole during his or her 25th year of incarceration. (Penal Code § 3051.)

Under the law, the Board of Parole Hearings must meet with youth offenders during the sixth year before their minimum parole eligibility to advise them about the hearing process, time credits, and relevant factors for parole. Individual recommendations must be made, in writing, regarding work assignments, rehabilitative programs, and institutional behavior. Then, one year prior to the minimum eligible parole release date, two or more commissioners or deputy commissioners again meet with the youth offender and normally will set a parole release date. In deciding suitability for release, the Board must give great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the youth offender in accordance with relevant case law. (Penal Code § 4801.)

Under the law, the Board will revise and adopt regulations regarding determinations of suitability for youth offender parole hearings to provide the required meaningful opportunity for release. Any psychological evaluations and risk assessment instruments used by the Board must consider 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. Family members, friends, school personnel, faith leaders, and representatives from community-based organizations with knowledge about the individual may submit statements for review by the Board, and victims retain all existing rights at the hearings. (Penal Code § 3051.)

If parole is not granted, the Board must set a subsequent youth offender parole hearing as specified in Penal Code § 3041.5. The new law does not apply to “Three Strikes” cases, life without the possibility of parole cases, or cases in which the youth commits a subsequent crime after age 18 involving malice aforethought and receives a life sentence.

Hearings for youth who qualify for review on the effective date of the law must be completed by July 1, 2015. (Penal Code 3051.)

IMPLEMENTATION

The SB 260 review process will be detailed in implementing regulations issued through the Board. Again, the law requires hearings for those already eligible to be held before July 1, 2015, so implementation guidance from the state should be forthcoming fairly quickly.

This fact sheet is intended for informational purposes only, and is not intended to and does not provide legal advice. Youth offenders who may benefit from S.B. 260 and those helping them should consult an attorney knowledgeable about the new law and the parole process for advice about their individual situation.