

SB 399

Fair Sentencing for Youth Act

PROBLEM

Life sentences ignore that young people have a unique ability to change

Youth can and do commit terrible crimes. When they do, they should be held accountable and face appropriate punishment. But youth are different from adults; youth have a greater capacity for rehabilitation. Young people continue to develop their identity and the direction of their lives into their early twenties. Recent findings in neuroscience confirm what many parents and teachers have long known: brain maturation is a process that continues through adolescence and into early adulthood, and impulse control, planning, and thinking ahead are skills still in development well beyond age 18. In addition, there is widespread agreement among child development researchers that young people who commit crimes are more likely to reform their behavior and have a better chance at rehabilitation than adults. The Supreme Court agrees—In *Roper v. Simmons*, 543 U.S. 551 (2005) the Court explained, “From a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor’s character deficiencies will be reformed.” No one can know definitively what kind of person a 14, 15, 16, or 17-year-old will become. Therefore, it is appropriate to provide youth with meaningful and periodic reviews of their life sentences to ensure that those who can prove they have reformed are given an opportunity to re-enter society as contributing citizens.

Life sentences for youth don’t reduce crime

Evidence shows that these sentences provide little or no real deterrent effect. California’s arrest rate for violent crimes by youth is higher than many other states, including states that do not sentence children to life without parole.

Life sentences for youth are used unfairly

California has the worst record in the nation for racial disparity in the imposition of life without parole for juveniles. African American youth are sentenced to life without parole at over 18 times the rate of white youth. Hispanic youth are sentenced to life without parole five times more often than white youth.

No real chance for rehabilitation

When youth are sentenced to life without parole not only do they have no opportunity for release, they are often left without access to programs and rehabilitative services while in prison. These sentences were created to punish the worst of criminals who have no possibility of reform. While the crimes they committed resulted in suffering, youth offenders should be given a real chance to redeem themselves.

81% of the public agrees: Youth should not spend the rest of their lives in prison

California’s laws should be more just; juveniles who commit crimes should be sentenced appropriately for the crime. But we should preserve the opportunity to review whether a person sentenced to life in prison as a child has been rehabilitated, and we should recognize that many youth receiving this sentence were convicted for a murder in which they played a minor role. The public agrees: A recent survey showed that 81 percent of West Coast residents believe that youth are redeemable and should not spend the rest of their lives in prison.

EXISTING LAW

Existing law allows youth to be sentenced to life in prison without the possibility of parole under California Penal Code §190.5 and various other Penal Code sections. Existing law under Penal Code §1170(d) permits resentencing upon the recommendation of the secretary or the Board of Parole Hearings.

THIS BILL

The Fair Sentences for Youth Act recognizes that all young people, even those serving life sentences, have the capacity to change for the better and should have access to the rehabilitative tools to do so. This Act would provide an opportunity for review and resentencing after ten years or more of incarceration for youth sentenced to life without parole in prison. Recognizing that teenagers are still maturing, this Act creates specific criteria and an intense, three-part review process that would result in the

possibility of a lesser sentence for those offenders who have matured and proven themselves to have changed. Under this Act, youth serving life sentences would first be assessed by the Department of Corrections. If deemed to have met certain criteria, those offenders would have the opportunity for a resentencing hearing. Not all youth would get a new sentencing hearing, and those who did would have no guarantee of getting a lesser sentence. Even if resentenced, most offenders will still face a parole board and must prove they merit parole. Otherwise, they will remain in prison. There would be no guarantee of parole, only the opportunity to earn it.

QUESTIONS & ANSWERS

Q: Does “life without parole” really mean no parole?

Yes. In California a sentence of life without parole (“LWOP”) means that these young offenders will die in prison with absolutely no opportunity to ask for parole. It also means those sentenced to LWOP have limited access to programs and rehabilitative services in prison, and no incentives provided by the state to work towards self improvement in prison.

Q: If a youth offender is resentenced to 25-to-life instead of LWOP, when is the first time he or she could ask for parole?

Only after serving 25 years in prison can an inmate ask for parole if he or she was convicted of murder. There are no exceptions.

Q: Shouldn’t these sentences be used for the worst crimes and the worst of criminals?

Yes— but that is not how the sentences are being used with youth. Nationally, 59 percent of juveniles sentenced to life without parole are first-time offenders—without a single crime on a juvenile court record. These young offenders very are not the worst of the worst offenders.

In California, Human Rights Watch estimates that 45 percent of youth offenders serving life without parole were convicted of murder but were not the ones to actually commit the murder. This is possible under California law which holds youth responsible for a murder that happens while they were part of a felony, even if they did not plan or expect a murder to occur.

Youth in life without parole cases are often acting under the influence of an adult. In nearly 70 percent of cases reported to Human Rights Watch in which the youth was

not acting alone, at least one codefendant was an adult. Survey responses reveal that in 56 percent of those cases, the adult received a lower sentence than the juvenile.

Q: Don’t life without parole sentences help control crime?

No. As a society we’ve learned a lot since the time this sentence was enacted. Evidence indicates that LWOP sentences provide no deterrent effect. Additionally, it is now recognized that the adolescent brain is still developing an ability to comprehend consequences and control impulses. This is particularly relevant to assessing criminal behavior and an individual’s ability to be rehabilitated.

Q: What do other states and countries do?

International human rights law strictly prohibits LWOP for youth and the United States is the only country in the world to sentence youth to life in prison with no opportunity for parole. Thirteen jurisdictions in the United States already prohibit the sentencing of youth to life without parole or do not have any youth offenders serving the sentence: Alaska, Colorado, Kansas, Kentucky, Maine, New Jersey, New Mexico, New York, Ohio, Oregon, Vermont, West Virginia, and the District of Columbia. Other states have efforts underway to eliminate the sentence, including Florida, Illinois, Iowa, Louisiana, Michigan, Nebraska, and Washington.

SUPPORT

A partial list: Archdiocese of Los Angeles, Office of Restorative Justice; Center for Law and Global Justice, University of San Francisco School of Law; Center for Juvenile Law and Policy; Human Rights Watch; National Center for Youth Law; Pacific Juvenile Defender Center; Youth Justice Coalition; and the Youth Law Center.

OPPOSITION

None.

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