

SB 999 – Yee

California Juvenile Life Without Parole Reform Act

PROBLEM

Children can and do commit terrible crimes. When they do, they should be held accountable and face appropriate punishment. But children are different than adults, in that they have a greater capacity for rehabilitation. Juveniles continue to develop their identity and the direction of their lives into their early twenties. Recent findings in neuroscience show that brain maturation is a process that continues through adolescence and into early adulthood, and that impulse control, planning, and thinking ahead are skills still in development well beyond age 18. The fact that juveniles are still-developing their identity means that even a heinous crime committed by a juvenile is not “evidence of an irretrievably depraved character.” See *Roper v. Simmons*, 543 U.S. 551 (2005).

Racial disparities in sentencing practices in California are the worst in the nation: black youth are sentenced to life without parole at 22 times the rate of white youth. Hispanic youth are sentenced to life without parole four times more often than white youth. 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.

Sentences of life without parole not only mean absolutely no opportunity for release, they also mean minors are often left without access to programs and rehabilitative services while in prison. This sentence was created for the worst of criminals that have no possibility of reform. While the crimes they committed caused undeniable suffering, these youth offenders are not the worst of the worst.

California’s laws should be more just: juveniles who commit horrible crimes may need to be sentenced to life in prison. But we should preserve the opportunity to review whether a person sentenced to life in prison as a child has been rehabilitated. The public agrees: A poll conducted of Americans living on the West Coast found that 86% disagree with the idea that children who commit crimes are beyond redemption.

EXISTING LAW

Penal Code Section 190.5 states:

(b) The penalty for a defendant found guilty of murder in the first degree, in any case in which one or more special circumstances enumerated in Section 190.2 or 190.25 has been found to be true under Section 190.4, who was 16 years of age or older and under the age of 18 years at the time of the commission of the crime, shall be confined in state prison for life without the possibility of parole or, at the discretion of the court, 25 years to life.

THIS BILL

The Juvenile Life Without Parole Reform 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 eliminate the sentencing of juveniles to life without parole in California. Juveniles could still be sentenced to life in prison, but would have the opportunity for parole consideration after serving 25 years or more in prison. At that time the offender must prove to the parole board that he or she should be paroled or he or she will remain in prison.

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 little motivation for self improvement.

Q: When is the first time someone can ask for parole with a sentence of 25 years to life?

Only after serving 25 years in prison can an inmate ask for parole. There are no exceptions, nor is there “time off for good behavior.”

Q: Isn’t this a sentence we should use for the worst of crimes and the worst of criminals?

Yes— but that is not how it is being used with children. Nationally, 59% of juveniles sentenced to LWOP are first-time offenders—without even a single crime on a juvenile court record; and 26% are serving the sentence for felony murder crimes in which the teen participated in a robbery or other felony during which another participant committed murder, without the knowledge or intent of the teen. While their crimes are violent and cause undeniable suffering, these youthful offenders are not the worst of the worst.

Q: Doesn’t “life without parole” help control crime?

No. As a society we’ve learned a lot since the time this sentence was enacted. Evidence indicates that life without parole provides no deterrent effect. We also now know that the adolescent brain is still developing the ability to comprehend consequences and control impulses. Other jurisdictions recognize these facts and do not use life without parole for child offenders.

Q: Do other jurisdictions prohibit LWOP sentences for juveniles?

As of 2007, nine jurisdictions in the United States prohibit the sentencing of youth offenders to LWOP. These are: Alaska, Colorado, Kansas, Kentucky, Maine, New Mexico, New York, West Virginia, and the District of Columbia. Other states are considering reforms or have efforts underway to eliminate the sentence, including Arkansas, Florida, Illinois, Iowa, Louisiana and Michigan.

The United States leads the world in the practice of sentencing juveniles to life without parole, claiming 99.5 percent of all youth globally serving this sentence. In fact, there are only twelve such cases outside of the US. The oldest human rights treaty to which the US is a party, the International Covenant on Civil and Political Rights, prohibits this sentence. Nationally, eleven jurisdictions have prohibited this sentence including New York and the District of Columbia.