



SENATOR
RICARDOLARA
LEGISLATIVE FACTSHEET

Juveniles Life Without the Possibility of Parole Senate Bill 394

Summary:

SB 394 would bring California into compliance with the recent *Montgomery* U.S. Supreme Court ruling that held the mandatory sentences of life without the possibility of parole (LWOP) unconstitutional for individuals who were minors at the time of their criminal conviction.

Background:

California law permits youth under the age of 18 to be sentenced to life in prison without the possibility of parole. The U.S. is the only country in the world to impose this sentence on children. In *Miller v. Alabama* (2012), the U.S. Supreme Court ruled that the Eighth Amendment's prohibition against cruel and unusual punishment forbids the mandatory sentencing of life in prison without the possibility of parole for juvenile offenders. The Court held that sentencing courts are required to consider the constitutional differences between children and adults at sentencing.

Last year in *Montgomery v. Louisiana* (2016), the U.S. Supreme Court held that the *Miller* ruling that prohibits juveniles from being sentenced to LWOP applies retroactively and that every person serving juvenile life without parole is entitled to a new sentencing hearing that fully considers the mitigating factors of youth.

Problem:

Resentencing hearings are time-consuming, expensive, and are subject to extended appeals. The Court offered an alternative to states: resentencing would not be required if a state provided the possibility of parole, citing Wyoming's law as an example. There, juveniles sentenced to LWOP get a parole hearing after 22 years of incarceration. Other states, too, have chosen mandatory minimums or outright eliminated the LWOP sentence for minors. Twenty-two states have now limited the use of LWOP for juveniles. More states are exploring changes to their laws in light of the recent *Montgomery* decision.

California has already established a parole process for people who were children or young adults at the time of their crime that takes into consideration an individual's youth. The process already exists and the population of juveniles who received LWOP, who are currently excluded, could be granted eligibility for a Youth Offender Parole hearing and bring California into compliance with the U.S. Supreme Court ruling.

The possibility of parole does not mean release. The Supreme Court noted in *Montgomery*, "A State may remedy [this] violation by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them...Those prisoners who have shown an inability to reform will continue to serve life sentences."

Solution:

SB 394 will remedy the now unconstitutional juvenile sentences of life without the possibility of parole. The bill would allow the approximate 290 juveniles with LWOP cases to be eligible for an initial parole hearing after 25 years of incarceration. There would be no guarantee of parole, only an opportunity for the person to work hard and try to earn the chance for parole.

SB 394 would streamline the process and bring California into compliance with the U.S. Supreme Court's most recent ruling by making juveniles sentenced to life without parole eligible under the state's existing youth offender parole (SB 260/PC 3051) process. This would eliminate the need for the *Montgomery* and other resentencing hearings.

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