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FREQUENTLY ASKED QUESTIONS ABOUT SENATE BILL 260

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Q: What is Senate Bill 260?

A: A California Bill signed by Governor Brown on September 16, 2013. It contains a set of laws to implement the United States Supreme Court’s decision in *Miller v. Alabama* (2012) 183 L.Ed.2d 407, which recognizes that most young people who commit crimes have the ability to change and become law-abiding citizens as they age and mature. It allows prisoners to have a hearing conducted by the California Board of Parole Hearings to consider their immaturity, inability to consider consequences, peer influences, etc., and to consider prisoners’ subsequent growth and increased maturity compared to the time of their crimes. (Pen. Code, § 3051 and § 4801(c).)

SB 260 also requires the Board to meet with Lifers during the sixth year before their minimum eligible parole dates in order to provide individualized recommendations about work, rehabilitative programs and institutional behavior. This meeting replaces the Documentation Hearing currently conducted during a prisoner’s third year of incarceration. (Pen. Code, § 3041 (a).)

When the Board relies on a psychological evaluation to consider parole suitability (as it always does), SB 260 requires the psychologist (employed by the Board) to address the role of youth, immaturity, inability to consider consequences, etc. in considering the prisoner’s risk. (Pen. Code, § 3051(f)(1).)

The Bill also requires the Board to consider statements from various parties – family members, friends, school personnel, faith leaders, and representatives from community-based organizations – who have knowledge about the young person prior to the crime, or who can attest to his or her growth and maturity since the time of the crime. (Pen. Code, § 3051(f)(2).) These people were already permitted to contact the Board with their opinions; however, this new law may prevent the Board from brushing off these statements as “general support.”

This Bill is supposed to provide a “meaningful opportunity” for release. (Pen. Code, § 3051(e).) In fact, when someone subject to this law is found suitable for parole, he or she is eligible for release *immediately* without waiting to serve the full term established in the Board’s “matrix” for fixing terms on life sentences. (Pen. Code, § 3046 (c).)

Q: Who is included?

A: Most prisoners serving lengthy sentences (determinate and life sentences) for crimes they committed before reaching age 18. (Pen. Code, § 3051(a)(1).)

Q: Who is excluded?

A: Four categories of prisoners are not eligible for special hearings under Senate Bill 260: (Pen. Code, § 3051(h).)

1. Prisoners serving life sentences pursuant to California’s Three Strikes Law;
2. Prisoners serving life sentences for rape under Jessica’s Law;
3. Prisoners serving sentences of Life Without the Possibility of Parole (LWOP); and
4. Prisoners who, *after* reaching age 18, committed a new crime that either involved malice aforethought or resulted in a life sentence.

(See Reverse Side)

Senate Bill 260

Frequently Asked Questions (cont'd)

Q: When is my Youthful Offender Parole Hearing due?

A: The law does not take effect until January 1, 2014, so we do not yet know how the Board will conduct hearings in the last couple months of 2013 for prisoners who will become eligible for special consideration in January. The following applies as of January 1, 2014:

- For a determinately sentenced prisoner, the Board will conduct a hearing in the 15th year of incarceration, unless the prisoner is previously released. (Pen. Code, § 3051(b)(1).) Obviously, you will not have to wait until the 15th year if the sentencing court imposed a determinate term that is shorter than 15 years.
- A prisoner serving a life sentence of less than 25-to-life will now be eligible during the 20th year of incarceration, unless previously released or entitled to earlier parole consideration under another law. (Pen. Code, § 3051(b)(2).)
- A prisoner serving a life sentence of 25-to-life or longer will now be eligible for parole during the 25th year of incarceration, unless previously released or entitled to earlier parole consideration under another law. (Pen. Code, § 3051(b)(3).)
- Hearings for all prisoners currently eligible (as established above) must be completed no later than July 1, 2015. (Pen. Code, § 3051(i).)

Q: Do I need an attorney for this hearing?

A: Absolutely. If you cannot afford one, the Board will appoint someone to represent you. Just make sure the attorney is familiar with SB 260 and has experience with parole hearings generally.

Q: Will Marsy's Law and its 3-, 5-, 7-, 10- and 15-year parole denials still apply?

A: Yes. (Pen. Code, § 3041(a), § 3051(g) and § 3041.5.)

Q: Does "incarceration" include county jail, juvenile hall, California Youth Authority or other time in custody before prison?

A: Yes. (Pen. Code, § 3051 (a)(2)(A).)

Q: Do I get to go back to court?

A: Not directly. An earlier version of this Bill permitted prisoners to petition their original sentencing courts after 10 years of incarceration, but those provisions were eliminated from later drafts of the Bill. However, if the Board denies parole at the hearing established in this Bill, you can challenge that decision in court using a petition for writ of habeas corpus.

Q: What if I have already been to the Board?

A: It appears that the Board should have to apply the "Youth Factors" to your next parole hearing, but we do not know whether the Board will *automatically* provide you with a new hearing earlier. However, the change in law would constitute a "changed circumstance" that permits you to petition the Board for an earlier hearing under Marsy's Law, even if you would not ordinarily be due for a hearing for several more years. (Pen. Code, § 3041.5 (d).)

Q: What if my hearing is already scheduled but will not take place before January 1, 2014?

A: We do not know whether the Board will implement any aspects of SB 260 in hearings scheduled in the last few months of 2013. We also do not know how the Board will alter hearings that are currently scheduled for early 2014 (when psychological evaluations have already been completed).

MORE INFORMATION WILL BECOME AVAILABLE AS THE BOARD OF PAROLE HEARINGS DEVELOPS SPECIFIC REGULATIONS TO IMPLEMENT SB 260.