

Support Senate Bill 260 (Hancock)

It is well settled that youths are fundamentally distinct from adults but notwithstanding are subject to prosecution in adult criminal court. Rational public safety policy should distinguish youthful offenders from adult offenders when determining sentencing and establish reasonable parole review mechanisms for youthful offenders who have been adjudicated in adult court but committed an offense while they were under the age of eighteen. Senate Bill 260 (Hancock) would amend existing law to establish such a process.

In 2005, the United States Supreme Court held in *Roper v. Simmons* that the death penalty for juveniles was cruel and unusual punishment and therefore violated well established limitations guaranteed by the U.S. Constitution. In reaching this conclusion the Supreme Court determined that there are significant differences between youths under the age of 18 and adults. Further, in *Miller v. Alabama* (2012), the Supreme Court ruled that a life without parole sentence for juvenile offenders in

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non-homicide cases is cruel and unusual punishment. In *People v. Caballero* (2012), the California Supreme Court, relying on the decision in *Miller* ruled that a determinate sentence that exceeds the expected lifetime of the youthful offender is also a violation of the Eighth Amendment guarantee against cruel and unusual punishment because it denies the opportunity for a youth to demonstrate rehabilitation. The ruling further articulated that defendants sentenced to life without parole or its functional equivalent may petition a trial court pursuant to a writ of habeas corpus to review the incarceration period.

In response to the decision in *Caballero*, Senate Bill 260 (Hancock) would require a youthful offender parole hearing for any person convicted of an offense in adult court that was committed prior to the age of eighteen. The parole review process would require the Board of Parole Hearings (BPH) to review a youthful offender's eligibility for parole no earlier than the fifteenth year of incarceration depending on the sentence. A variety of research, including by the American Bar Association, confirms that by comparison, youthful offenders are more suitable to rehabilitation and more malleable than adult offenders. The provisions in Senate Bill 260 would allow consideration of evidence weighing toward the diminished culpability of youthful offenders. Further, the bill would not alter the rights of victims at parole hearings and excludes persons sentenced under "Three Strikes" law.

The evolution of juvenile justice thought and jurisprudence, along with significant

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concerns with mandatory sentencing laws and rising costs associated with incarceration, has resulted in a rethinking of the criminal justice policies that are applied toward youths. Accordingly, facilitating a reduction in the prison population and adjusting the parole review hearing laws to meet the requirements set forth by both the federal and state courts is smart public policy. This bill has passed both houses of the California Legislature and is under consideration by the Governor. Therefore, action on the bill by the Board of Supervisors is timely and appropriate.

I THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:

Direct the Chief Executive Officer and the County's Legislative Advocates in Sacramento to take all appropriate action to support the enactment of Senate Bill 260 (Hancock) and transmit a letter stating the Board's support of the legislation to the Governor of California and to the Senate President pro Tempore, Speaker of the Assembly, and to each member of the State Assembly serving Los Angeles County in the California State Legislature.

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