

ASSEMBLY BILL NO. 267—ASSEMBLYMEN HAMBRICK, HICKEY,
PAUL ANDERSON; OHRENSCHALL, O’NEILL, SEAMAN AND TITUS

MARCH 12, 2015

JOINT SPONSORS: SENATORS HAMMOND, PARKS,
FORD; MANENDO AND SETTELMAYER

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning the sentencing and parole of persons convicted as an adult for a crime committed when the person was less than 18 years of age. (BDR 14-641)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; setting forth certain mitigating factors a court must consider when determining an appropriate sentence for a person convicted as an adult for an offense committed when the person was less than 18 years of age; eliminating the imposition of a sentence of life without the possibility of parole upon a person convicted of a crime committed when the person was less than 18 years of age; providing that a prisoner who was sentenced as an adult for an offense that was committed when he or she was less than 18 years of age is eligible for parole after the prisoner has served 15 years of his or her sentence; setting forth certain factors the State Board of Parole Commissioners must consider when determining whether to grant parole to a person convicted as an adult for an offense committed when the person was less than 18 years of age; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

Existing law prohibits a sentence of death from being imposed or inflicted upon any person convicted of certain crimes who was less than 18 years of age at the time the crime was committed. The maximum punishment that may be imposed upon such a person is life imprisonment without the possibility of parole. Existing law also prohibits a sentence of life imprisonment without the possibility of parole from being imposed or inflicted upon any person convicted of a non-homicide crime who was less than 18 years of age at the time the crime was committed. The maximum punishment that may be imposed upon such a person is life imprisonment with the possibility of parole. (NRS 176.025)

Section 2 of this bill eliminates the imposition of a sentence of life without the possibility of parole upon a person convicted of certain crimes who was less than 18 years of age at the time the crime was committed, thereby making life imprisonment with the possibility of parole the maximum punishment that may be imposed upon a person convicted of any crime who was less than 18 years of age at the time the crime was committed.

Section 1 of this bill sets forth certain mitigating factors that a court must consider in determining an appropriate sentence to be imposed upon a person who is convicted as an adult for an offense that was committed when he or she was less than 18 years of age.

Section 3 of this bill provides that a prisoner who was sentenced as an adult for an offense that was committed when he or she was less than 18 years of age is eligible for parole after the prisoner has served 15 years of his or her sentence.

Section 3 also sets forth certain mitigating factors that the State Board of Parole Commissioners must consider when determining whether to grant parole to such a prisoner.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a person is convicted as an adult for an offense that the person committed when he or she was less than 18 years of age, in addition to any other factor that the court is required to consider before imposing a sentence upon such a person, the court shall consider the following mitigating factors in determining an appropriate sentence to be imposed upon the person:

(a) The age of the person at the time of the commission of the offense;

(b) The intellectual capacity of the person;

(c) The emotional, psychological and physical maturity of the person;

(d) The ability of the person to have appreciated the risks and consequences of committing the offense before the commission of the offense;

(e) The level of participation of the person in the commission of the offense and whether and to what extent an adult was also involved in the commission of the offense;



(f) Whether the person exhibited impetuous behavior in the commission of the offense;

(g) The family and community environment to which the person has been exposed;

(h) The extent to which the person's peers or family placed pressure on the person to commit the offense;

(i) Any history of trauma or abuse suffered by the person;

(j) The extent of the person's involvement in the child welfare system;

(k) The extent of the person's involvement in the community;

(l) Any available education records or evaluations of the person;

(m) The result of any available comprehensive mental health evaluation conducted by a person professionally qualified in the field of psychiatric mental health and any available information that formed the basis for the result;

(n) The ability of the person to participate meaningfully in his or her defense;

(o) The capacity of the person for rehabilitation; and

(p) Any other mitigating factor that the court deems to be relevant in determining an appropriate sentence.

2. As used in this section, "person professionally qualified in the field of psychiatric mental health" has the meaning ascribed to it in NRS 433B.090.

Sec. 2. NRS 176.025 is hereby amended to read as follows:

176.025 ~~14.1~~ A sentence of death **or life imprisonment without the possibility of parole** must not be imposed or inflicted upon any person convicted of a crime now punishable by death **or life imprisonment without the possibility of parole** who at the time of the commission of the crime was less than 18 years of age. As to such a person, the maximum punishment that may be imposed is life imprisonment ~~without~~ **with** the possibility of parole.

~~12.—A sentence of life imprisonment without the possibility of parole must not be imposed or inflicted upon any person convicted of a non-homicide crime now punishable by life imprisonment without the possibility of parole who at the time of the commission of the crime was less than 18 years of age. As to such a person, the maximum punishment that may be imposed is life imprisonment with the possibility of parole.]~~

Sec. 3. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

1. **Notwithstanding any other provision of law, and unless a prisoner is subject to earlier eligibility for parole pursuant to any other provision of law, a prisoner who was sentenced as an adult for an offense that was committed when he or she was less than 18**



years of age is eligible for parole after the prisoner has served 15 years of his or her sentence.

2. Any time a prisoner described in subsection 1 is being considered for parole pursuant to this chapter, the Board shall provide the prisoner with a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation. In addition to any other factor that the Board is required to consider when determining whether to grant parole to a prisoner, the Board shall consider the following factors in making its determination:

(a) The difference between juvenile and adult offenders, including, without limitation, the diminished culpability of juveniles as compared to that of adults and the typical characteristics of youth;

(b) The age of the prisoner at the time of the commission of the offense;

(c) The maturity of the prisoner at the time of the commission of the offense;

(d) Any subsequent increase in the maturity of the prisoner during the period of his or her incarceration;

(e) The level of participation of the prisoner in the commission of the offense and whether and to what extent an adult was also involved in the commission of the offense;

(f) The family and community environment to which the prisoner was exposed at the time of the commission of the offense;

(g) Any history of trauma or abuse suffered by the prisoner before the commission of the offense;

(h) The extent of the prisoner's involvement in the child welfare system before the commission of the offense;

(i) Any available education records or evaluations of the prisoner;

(j) Any available court documents concerning the prisoner;

(k) The level of participation by the prisoner in any available rehabilitative or educational programs or the use of self-study for self-improvement during the period of his or her incarceration;

(l) Any effort the prisoner has made toward rehabilitation;

(m) Any evidence of remorse by the prisoner; and

(n) Any other factor that the Board deems to be relevant in making a determination as to whether to grant parole to the prisoner.

Sec. 4. NRS 213.107 is hereby amended to read as follows:

213.107 As used in NRS 213.107 to 213.157, inclusive, **and section 3 of this act**, unless the context otherwise requires:

1. "Board" means the State Board of Parole Commissioners.

2. "Chief" means the Chief Parole and Probation Officer.



3. “Division” means the Division of Parole and Probation of the Department of Public Safety.

4. “Residential confinement” means the confinement of a person convicted of a crime to his or her place of residence under the terms and conditions established by the Board.

5. “Sex offender” means any person who has been or is convicted of a sexual offense.

6. “Sexual offense” means:

(a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, 201.230 or 201.450, or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(b) An attempt to commit any offense listed in paragraph (a); or

(c) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

7. “Standards” means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.

Sec. 5. 1. The amendatory provisions of sections 1 and 2 of this act apply to:

(a) An offense committed on or after October 1, 2015; and

(b) An offense committed before October 1, 2015, if the person is convicted on or after October 1, 2015.

2. The amendatory provisions of section 3 of this act apply to an offense committed before, on or after October 1, 2015.

