

# SAN JOSE MERCURY NEWS

## Law could lighten the sentences of California juvenile offenders serving life without parole

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California's practice of locking teenage offenders in prison for life without the possibility of parole would be upended under legislation just a few votes shy of reaching the governor's desk -- a change that would move the state closer to justice in conservative Texas and every other country in the world.

The bill by state Sen. Leland Yee, D-San Francisco, would create a legal pathway but no certainty of release for juvenile offenders who currently have no option but to die behind bars.

If the bill passes the Assembly and is signed by the governor, it would allow those who committed crimes at age 17 or younger the option to petition the court for a "resentencing" hearing. With a judge's approval, life without the possibility of parole could be reduced to a 25-to-life sentence with the right to parole board hearings after a quarter-century in prison.

Sentencing minors to life with no chance to prove they could be worthy of release is "barbaric," according to more than 75 groups pushing for SB 9, ranging from the California Medical Association to the Buddhist Peace Fellowship. Supporters argue that mounting scientific research shows children's brains are underdeveloped, leading to impulsivity and groupthink and they therefore cannot be held to adult criminal standards. That very malleability, they say, also means juveniles can learn from even the most horrific mistakes and overcome them.

Children who commit serious crimes "are still

capable of growing, maturing and rehabilitating themselves," said John O'Toole, director of the Oakland-based National Center for Youth Law. "We can't just throw them away."

These arguments have come under attack in Sacramento. Representing highway patrol officers and a 63,000-member police officer association, one of the state's most influential lobbyists spoke out at a recent bill hearing. Aaron Read testified that Yee's legislation is unnecessary because judges can already choose appropriate sentences. He said he

resents the tone of discussions about "these youngsters," when many have committed heinous crimes like the 2004 slaying outside a Pomona courthouse of a California Highway Patrol officer.

After his 16-year-old killer was sentenced to life without parole, Officer Thomas Steiner's widow, Heidi, said she was comforted that her son would not have to grow up going to parole hearings.

"This is an exquisitely cruel bill," said John Lovell, lobbyist for the California Police Chiefs Association. He noted the bill's provision that offenders can petition for a reduced sentence after 15, 20 and 25 years in prison. "If this bill becomes law, the families of victims who have been murdered in the most callous, heinous murders will be forced to revisit those murders on three different occasions in the courts."

Yee, a child psychologist, said his bill does not "diminish the pain and the hurt and the suffering that these victims feel." But he added: "The question I would pose to them is what do we want to do as a society when an individual has accepted responsibility and turned their life around? If life is that valuable, you ought to give them a chance to come back out into society."

Under his bill, family members of victims could participate in hearings, but the court could also consider mental illness, developmental disabilities, childhood trauma and insufficient adult support. Petitioners would have to behave in prison and demonstrate remorse. They also would have to better their lives through high school equivalency courses or vocational programs.

Yee has attempted similar legislation before. This session's vote count is again down to a small group of undecided Democratic lawmakers. No Republicans are expected to vote for the bill.

The United States is the only country in the world that imprisons these youth offenders, who now number approximately 2,500, according to the University of San Francisco Law School's Center for Law & Global Justice.

The nation's Supreme Court has also recently weighed in. In 2005, the death penalty was ruled unconstitutional for juveniles, and last year the high court banned life without parole for minors who committed crimes that did not involve murder, describing it as cruel and unusual punishment.

State data show there are now 295 juvenile offenders serving life without the possibility of parole. The offenders committed crimes between ages 14 and 17, and have been tried as adults. Most were convicted of first-degree murder "with special circumstances."

But Human Rights Watch attorney Elizabeth Calvin found that in 45 percent of the cases, they did not pull the trigger. Some were teens involved in burglaries who fled the scene, stood lookout or rode in getaway cars.

Three-quarters of the offenders are black or Latino; six are women. Nationwide, according to Amnesty International, 59 percent are first-time offenders.

Such findings fueled the push for new sentencing laws, said Jody Kent Lavy, director of the Washington, D.C.-based Campaign for the Fair Sentencing of Youth. Eleven states and the nation's capital have no youth offenders serving life without parole, or do not allow such sentences. In recent years, Texas and Colorado have reversed course on the practice, and an additional dozen states have pending or early-stage legislation.

Lavy said unlike in California, there is bipartisan support, often including tough-on-crime Republicans.

Those now imprisoned include an Oakland 17-year-old, Clemeth Castille, who was heading to a Job Corps program when a friend lured him into a robbery where his co-defendant shot and killed a convenience store employee. Christian Bracamontes also followed a friend into a robbery that turned fatal. The shooter will have a chance at parole, but Bracamontes told Calvin that at age 16 he didn't understand that "aiding and abetting" a murder could land him in prison for life. He rejected several plea bargains.

Sara Kruzan is one of the rare cases. Raised by an abusive mother, she was hospitalized for severe depression and suicide attempts beginning at age 9. At 11, she was sexually assaulted by a pimp 20 years her senior who groomed her as a prostitute. At 16, she killed him in a motel room.

Now 33, Kruzan was granted clemency by former Gov. Arnold Schwarzenegger in January. She has served 16 years in prison and if Yee's bill passes she'd be eligible for parole in nine more years.

"It's a long, long process and this bill is not going to free anyone automatically or easily," said youth lawyer O'Toole. "What it does do is give people