
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 1094 (Bains) - Crimes: torture of a minor: parole

Version: May 23, 2025

Urgency: No

Hearing Date: July 14, 2025

Policy Vote: PUB. S. 6 - 0

Mandate: Yes

Consultant: Liah Burnley

Bill Summary: AB 1094 requires, for a crime of torture, if the defendant is an adult who had care or custody of the victim 14 years of age or younger at the time of the crime, the person shall not be eligible for parole until they have served at least 14 years.

Fiscal Impact:

- Unknown, potentially significant costs (General Fund) to the Department of Corrections and Rehabilitation (CDCR), likely in the millions of dollars annually, to incarcerate people for the increased sentences in this bill. The Legislative Analyst's Office (LAO) estimates the average annual cost to incarcerate one person in state prison is \$133,000. The annual cost of operating a mental health crisis bed at CDCR is around \$400,000. As part of the ongoing Coleman court case, CDCR has been incurring fines monthly since April 2023 for failing to reduce vacancy rates for five mental health classifications. The state has paid over \$200 million in fines to date, and is still accruing fines. Thus, if even if just one person is sentenced to state prison for one year under this bill, it will add significant costs pressures to CDCR. By way of illustration, if only one are incarcerated for 14 years before they are eligible for parole as a result of this bill, it would cost the state, at minimum \$1,862,000.
- Potential cost pressures (General Fund) to the Department of State Hospitals (DSH), in order to adequately house, treat, and care for persons committed to DSH that otherwise would not. Cost pressures to DSH are connected with an increase in state prison sentences. DSH's proposed budget for fiscal year 2025-26 totals \$3.4 billion – an increase of \$3.4 million from the 2024 Budget Act. An increase the DSH population would result in the need for additional funding.

Background: Every person who, with the intent to cause cruel or extreme pain and suffering for the purpose of revenge, extortion, persuasion, or for any sadistic purpose, inflicts great bodily injury upon the person of another, is guilty of torture. The crime of torture does not require any proof that the victim suffered pain.

Torture is punishable by imprisonment in the state prison for a term of life. A person imprisoned under a life sentence shall not be paroled until they serve the greater of seven years or a term as established pursuant to any other law that establishes a minimum term or minimum period of confinement under a life sentence before eligibility for parole.

Specific to children, prosecutors can also impose felony charges carrying up to a 6-year sentence if someone “willfully inflicts upon a child any cruel or inhuman corporal punishment or an injury resulting in a traumatic condition.” Prosecutors can seek an additional 4-year enhancement if the person has a prior conviction. Prosecutors can simultaneously bring felony charges, depending on the circumstances, of great bodily injury (GBI) under. GBI is a strikeable offense under the Three Strikes Law, and if GBI was inflicted on a child under the age of five, prosecutors can bring another 4 to 6 year enhancement. In other words, existing law gives prosecutors a plethora of options for charges they could bring for the crime of child torture that collectively carry far longer sentences than the torture statute.

A parole hearing is a hearing to determine whether an incarcerated individual is suitable for release to parole supervision. Incarcerated individuals who are indeterminately sentenced must be granted parole by the parole board in order to be released from prison. The Board of Parole Hearings (BPH) makes its decisions based on the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, and considers whether public safety requires a more lengthy period of incarceration for this individual. Existing law mandates BPH, in considering parole for an individual, to consider all statements and recommendations submitted by the judge, district attorney, and sheriff, or in response to notices given pursuant to existing law, and recommendations of other persons interested in the granting or denying of parole.

Proposed Law: Provides that, for a crime of torture committed after January 1, 2026, if the defendant is an adult who had care or custody of the victim 14 years of age or younger at the time of the crime, the person shall not be eligible for parole until they have served at least 14 years.

Staff Comments: Mass incarceration in California did not occur in a vacuum; it was the result of decades of cumulative policy decisions, that while well-intentioned, collectively expanded the scope and severity of the criminal justice system. Although individual pieces of legislation like this bill, and many others introduced this legislative session, may appear narrow or incremental, their combined effect will significantly increase incarceration rates. California has a well-documented history of prison overcrowding, which culminated in federal court intervention and a U.S. Supreme Court ruling in *Brown v. Plata* (2011) that found the state’s prison conditions unconstitutional due to severe overcrowding. Returning to such conditions would undermine fiscal sustainability, public safety, and rehabilitation goals.

The Governor’s budget estimates that Proposition 36 (2024), which increased punishment for various theft and drug crimes, will increase the average daily prison population, creating additional costs pressures for the state. Further, given the prevalence of mental health needs among incarcerated people, legislation that sends more people to state prison adds significant costs to CDCR for the delivery of mental health care. About one-third of the prison population has a diagnosed mental health need.

The state strives to have a balanced system that preserves public safety while remaining fiscally responsible. Given the state’s fiscal situation, the May Revision to the Governor’s 2025-26 Budget proposes to close one additional prison by October 2026.

Upon full closure, the state will achieve an estimated savings of about \$150 million General Fund annually. Measures that increase the incarcerated population threaten the state's ability to continue making progress in right-sizing California's prison system.

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