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THIRD READING

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Bill No: AB 1094  
Author: Bains (D), et al.  
Amended: 8/29/25 in Senate  
Vote: 21

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SENATE PUBLIC SAFETY COMMITTEE: 6-0, 7/1/25  
AYES: Arreguín, Seyarto, Caballero, Gonzalez, Pérez, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/29/25  
AYES: Caballero, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

ASSEMBLY FLOOR: 74-0, 6/2/25 - See last page for vote

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**SUBJECT:** Crimes: torture of a minor: parole

**SOURCE:** Orange County District Attorney's Office

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**DIGEST:** This bill prohibits a person imprisoned for committing torture on or after January 1, 2026 from being eligible for parole until the person has served at least 10 years, if the defendant was an adult at the time of the crime and the victim was 14 years of age or younger and in the care or custody of the defendant at the time of the crime.

**ANALYSIS:**

Existing law:

- 1) States 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. Specifies that the crime of torture does not require any proof that the victim suffered pain. (Penal Code (Pen. Code), § 206.)
- 2) Provides that torture is punishable by imprisonment in the state prison for a term of life. (Pen. Code, § 206.1.)

- 3) Provides that an incarcerated person imprisoned under a life sentence shall not be paroled until the person has served the greater of the following:
  - a) A term of at least seven calendar years.
  - b) 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. (Pen. Code, § 3046, subd. (a).)
- 4) Establishes various processes related to parole suitability hearings. (Pen. Code, §§ 3040-3049.)
- 5) Provides that parole shall be granted to an incarcerated person unless the Board of Parole Hearings (BPH) determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).)
- 6) Mandates BPH, in considering parole for an individual, consider all statements and recommendations which may have been 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. (Pen. Code, § 3046, subd. (d).)
- 7) Provides that any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where the child's person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years. (Pen. Code, § 273a, subd. (a).)
- 8) Provides that any person, having the care or custody of a child who is under eight years of age, who assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child's death, shall be punished by imprisonment in the state prison for 25 years to life. (Pen. Code, § 273ab, subd. (a).)

- 9) Provides that any person, having the care or custody of a child who is under eight years of age, who assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child
- 10) Becomes comatose due to brain injury or suffering paralysis of a permanent nature, shall be punished by imprisonment in the state prison for life with the possibility of parole. (Pen. Code, § 273ab, subd. (b).)
- 11) Provides that any person who willfully inflicts upon a child any cruel or inhuman corporal punishment or an injury resulting in a traumatic condition is guilty of a felony and shall be punished by imprisonment for two, four, or six years, or in a county jail for not more than one year, by a fine of up to \$6,000, or by both imprisonment and fine. (Pen. Code, § 273d, subd. (a).)
- 12) Provides that any person who is found guilty of cruel or inhuman corporal punishment or an injury of a child resulting in a traumatic condition shall receive a four-year enhancement for a prior conviction of that offense, except as provided. (Pen. Code, § 273d, subd. (b).)
- 13) Provides that any person who personally inflicts great bodily injury on any person other than an accomplice in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for three years. (Pen. Code, § 12022.7, subd. (a).)
- 14) Provides that any person who personally inflicts great bodily injury on any person other than an accomplice in the commission of a felony or attempted felony which causes the victim to become comatose due to brain injury or to suffer paralysis of a permanent nature shall be punished by an additional and consecutive term of imprisonment in the state prison for five years. (Pen. Code, § 12022.7, subd. (a).)
- 15) Provides that any person who personally inflicts great bodily injury on a child under the age of five years in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for four, five, or six years. (Pen. Code, § 12022.7, subd. (d).)

This bill prohibits a person imprisoned for the crime of torture committed on or after January 1, 2026, from being eligible for parole until the person has served at least 10 years, if the defendant was an adult at the time of the crime and the victim

was 14 years of age or younger and in the care or custody of the defendant at the time of the crime.

## **Background**

Torture was added to the Penal Code following the passage of Proposition 115 by the voters in 1990, and the statute has not been amended since that time. Penal Code section 206 provides that “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 as defined... upon the person of another, is guilty of torture.” The punishment for torture is “imprisonment in the state prison for a term of life.” (Pen. Code, § 206.1) When the punishment for a crime is “life” but a term is not specified, the minimum term is seven years. (Pen. Code, § 3046, subd. (a)(1).)

*Parole Hearings.* 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 Penal Code provides that the parole board “shall grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual.” (Pen. Code, § 3041, subd. (b).) The fundamental consideration when making a determination about an individual’s suitability for parole is whether the person currently poses an unreasonable risk of danger to society if released from prison. (*In re Shaputis* (2008) 44 Cal.4th 1241.) The decision whether to grant parole is an inherently subjective determination. (*In re Rosenkrantz* (2002) 29 Cal.4th 616, 655.)

In deciding whether to grant parole, BPH must consider all relevant and reliable information available. (Cal. Code Regs., tit. 15, §§ 2402, subd. (b), 2281, subd. (b).) Although the parole board is required to consider the circumstances of the offense, the California Supreme Court has held that it may not rely solely on the commitment offense when deciding to grant parole unless the circumstances of the offense “continue to be predictive of current dangerousness.” (*In re Lawrence* (2008) 44 Cal.4th 1181, 1221.) The parole board is prohibited from requiring an admission of guilt when considering whether to grant an individual parole. (Pen. Code, § 5011, subd. (b).) However, “an implausible denial of guilt may support a

finding of current dangerousness, without in any sense requiring the inmate to admit guilt as a condition of parole....it is not the failure to admit guilt that reflects a lack of insight, but the fact that the denial is factually unsupported or otherwise lacking in credibility.” (*In re Shaputis* (2011) 53 Cal.4th 192, 216.) Although the term “insight” is not explicitly included in the regulations, the regulations “direct the Board to consider the inmate’s ‘past and present attitude toward the crime’ and ‘the presence of remorse,’ expressly including indications that the inmate ‘understands the nature and magnitude of the offense’... fit[ting] comfortably within the descriptive category of ‘insight.’” (*Id.* at 218 (citations omitted).)

The victim, victim’s next of kin, members of the victim’s family, and two representatives have the right to appear at the parole hearing to express their views concerning the incarcerated person and the case, including the incarcerated person’s suitability and the effect of the crime or crimes on the victim and victim’s family. (Pen. Code, § 3043, subd. (b)(1).) Notably, the victim and others entitled to attend the hearing may submit a written or electronic recording of their statement to the parole board in lieu of appearing at a parole hearing in person, and the board is required to consider any such statement prior to making a parole suitability determination. (Pen. Code, § 3043.2, subd. (a).)

A finding of suitability is subject to an internal review period as well as gubernatorial review. A finding of unsuitability results in a denial of parole. Marsy’s Law, approved by the voters on November 4, 2008 and codified in Penal Code section 3041.5, delineates when the individual’s next parole hearing is to be scheduled (i.e., three, five, seven, ten, or fifteen years). BPH may in its discretion, after considering the views and interests of the victim, advance a subsequent parole hearing to an earlier date, when a change in circumstances or new information establishes a reasonable likelihood that consideration of the public and victim’s safety does not require the additional period of incarceration of the individual. (Pen. Code, § 3041.5, subd. (b)(4).) An incarcerated individual may also petition the board to exercise its discretion to advance a subsequent parole hearing to an earlier date, by submitting a written request, setting forth the change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration of the individual. (Pen. Code, § 3041.5, subd. (d)(1).)

Eligibility for parole does not mean that the person will be granted parole. Although the parole grant rate has varied over time, the grant rate for hearings held between 2019 and 2024 for which the panel reached a decision to either grant or deny parole (i.e., excluding scheduled hearings that were postponed, waived,

canceled, continued, or for which the person stipulated to unsuitability) ranged between 28-35%. (See BPH, *Parole Suitability Proceedings and Statistical Data by Calendar Year* available at <<https://www.cdcr.ca.gov/bph/statistical-data/> .)

This bill requires a person convicted of the crime of torture to serve at least 10 years before the person is eligible for parole if the defendant was an adult at the time of the crime and the victim was 14 years of age or younger and in the care or custody of the defendant at the time of the crime.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- 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 10 years before they are eligible for parole as a result of this bill, it would cost the state, at minimum \$1,330,000.
- 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.

**SUPPORT:** (Verified 8/29/25)

Orange County District Attorney's Office (source)  
Arcadia Police Officers' Association

Brea Police Association  
Burbank Police Officers' Association  
California Association of School Police Chiefs  
California Coalition of School Safety Professionals  
California District Attorneys Association  
California Narcotic Officers' Association  
California Police Chiefs Association  
California Reserve Peace Officers Association  
California State Sheriffs' Association  
Claremont Police Officers Association  
Corona Police Officers Association  
Culver City Police Officers' Association  
Fullerton Police Officers' Association  
Los Angeles School Police Management Association  
Los Angeles School Police Officers Association  
Murrieta Police Officers' Association  
Newport Beach Police Association  
Palos Verdes Police Officers Association  
Placer County Deputy Sheriffs' Association  
Pomona Police Officers' Association  
Riverside Police Officers Association  
Riverside Sheriffs' Association

**OPPOSITION:** (Verified 8/29/25)

ACLU California Action  
Californians United for a Responsible Budget  
Ella Baker Center for Human Rights  
Initiate Justice  
Initiate Justice Action  
Justice2Jobs Coalition  
La Defensa  
San Francisco Public Defender  
Smart Justice California  
UnCommon Law

**ASSEMBLY FLOOR:** 74-0, 6/2/25

**AYES:** Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick,

Haney, Harabedian, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee,  
Lowenthal, Macedo, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel,  
Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste  
Rodriguez, Michelle Rodriguez, Blanca Rubio, Sanchez, Schiavo, Schultz,  
Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward,  
Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Bonta, Bryan, Hart, McKinnor, Rogers

Prepared by: Stephanie Jordan / PUB. S. /  
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\*\*\*\* END \*\*\*\*