



SENATOR DAVE CORTESE

SENATE BILL 94

JUDICIAL REVIEW OF OLD SENTENCES

SUMMARY

This bill would provide for judicial review for individuals serving life without parole or sentenced to death for offenses committed before June 5, 1990, and who have served at least 20 years of their sentence. Courts will review evidence of mitigating factors or reduced risk of violence consistent with changes in California law enacted in intervening years. In these cases, judges will have the discretion to leave the sentence unchanged or to resentence the person to a lesser sentence.

BACKGROUND

In the last ten years, the Legislature has enacted several reforms to restore judicial discretion and to allow judges to consider mitigating factors at sentencing, including whether the person to be sentenced was the victim of intimate partner violence, or human trafficking (AB 124, 2021); experienced childhood trauma (AB 124, 2021); was under the age of 26 at the time of the offense (SB 260, SB 261, AB 124); was a veteran and the actions related to trauma experienced in the military (AB 2098, AB 865, SB 1209); suffered from cognitive impairment, intellectual disability, or mental illness (SB 215, AB 2512); and whether there was racial bias in the proceedings (AB 2542, AB 256). As a result of these changes, many individuals who received extreme sentences decades ago would not be sentenced the same way today. Individuals serving life without parole (LWOP) and sentenced to death are locked into sentences that are not consistent with contemporary sentencing practices established by the California Legislature.

Although these individuals currently have no path to parole, many have exhibited decades of exemplary behavior, participated in extensive positive programming, have come to understand the contributing factors which led to their incarceration, and have devoted themselves to becoming positive members of society. The majority of people serving a life without parole sentence are classified as low risk according to California Department of Corrections and Rehabilitation (CDCR)'s own California

Static Risk Assessment tool - 88% of people serving life without parole have been assessed with the lowest risk score on that scale. Research also conclusively demonstrates that there is little risk for elderly individuals to re-offend or recidivate upon release. For individuals previously sentenced to life without parole who were granted a commutation and released, the recidivism rate is zero percent.

THIS BILL

This bill will allow a person to petition for judicial review if their offense occurred before June 5, 1990, if they have served a minimum of 20 years, and they have been convicted of a special circumstance enumerated in Penal Code 190.2. If a person qualifies, the court may modify the petitioner's sentence and apply changes in law that reduce sentences or provide for judicial discretion, unless the court finds that the petitioner is currently an unreasonable risk to public safety. The bill provides that proof of mitigating factors would provide great weight to resentencing. This bill simply creates a process for the review of cases that have not been looked at in decades. In these cases, judges will have the opportunity to utilize their discretion.

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Families United to End Life without Parole
Felony Murder Elimination Project
Sister Warriors Freedom Coalition

FOR MORE INFORMATION

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