

Senate Bill 81

Fairness and Transparency in Parole

Senators Josh Becker (D-San Mateo) and Nancy Skinner (D-Berkeley)

THIS BILL

SB 81 implements key recommendations made by the independent Legislative Analyst's Office to improve California's parole process. The LAO report, "[Promoting Equity in the Parole Hearing Process](#)," concluded that the process needs safeguards to increase objectivity and transparency as well as oversight to help ensure that decisions made by parole commissioners are based on public safety considerations.

ISSUE

California's penal code provides for determinate and indeterminate sentences. Determinate sentences specify a set amount of time a person is incarcerated. Indeterminate sentences provide a range of time, with the Parole Board, through a hearing process, having the authority to determine the time of the person's release.

According to the LAO report, "For about 40% of [incarcerated] people... the amount of time they ultimately serve in prison — in many cases including whether or not they will spend the rest of their lives in prison — is determined through the parole hearing process. Accordingly, decisions made in the parole hearing process have major implications for the lives of a significant portion of the state prison population and their loved ones, as well as victims and the safety of the general public."

California's existing parole statute provides that parole "shall normally" be granted. However, data demonstrates that this is not the case, instead [about 20%](#) of people eligible for parole each year are granted release by the Bureau of Parole Hearings (BPH).

According to the LAO's report, there are indications that California's parole system too often allows parole commissioners to deny release based on subjective factors that could be influenced by implicit or explicit bias, rather than basing decisions on a factual demonstration of the person's threat to public safety. The overly broad discretion provided to commissioners, according to the LAO, "allows decisions to be influenced by the idiosyncrasies,

values, or conscious or unconscious biases of decision makers."

The LAO report also notes that the parole system lacks transparency; it does not publish data on parole outcomes by race, ethnicity, or other subgroups. However, one data point that is available raises serious due process concerns. According to the report, "Available data raise concerns that candidates who rely on state-appointed attorneys have worse hearing outcomes and may be receiving less effective legal and other hearing preparation services relative to candidates who are able to access a private attorney. This means that two candidates who are otherwise identical might have different hearing outcomes based on their ability to access a private attorney."

The LAO recommends that the Legislature address these problems by increasing transparency in the parole process; creating safeguards to ensure that decisions are objective and not influenced by improper biases; and providing adequate court oversight for parole decisions.

SOLUTION

To implement the recommendations in the LAO's [Promoting Equity in the Parole Hearing Process](#) report, SB 81 will:

- Require BPH to ensure that a denial is based on objective reasons that a parole candidate is a public safety risk;
- Help reduce parole decisions that may rely on factors that are subject to bias, including race, gender, and disability, among others;
- Clarify that reviewing courts should apply a "clear and convincing evidence" standard when reviewing parole denials and reversal decisions; and
- Provide that parole candidates are informed of their right to seek judicial review of a denial and have an attorney for this process.

SUPPORT

ACLU California Action
Californians for Safety and Justice
California Coalition for Women Prisoners
Ella Baker Center for Human Rights
Initiate Justice
Prison from the Inside Out
Smart Justice California
UnCommon Law

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