



New Mexico

SETTING THE RECORD STRAIGHT ON SB 247

MYTH: The 15-year parole eligibility under SB 247 is unprecedented and represents a “soft on crime” policy.

REALITY: Many states have set parole eligibility at 15 years for those serving adult sentences for crimes committed as children, and they have done so without sacrificing the needs of crime victims or public safety.

SB 247 would abolish juvenile life without parole and give people who committed serious crimes as children an opportunity for early release if they can demonstrate their rehabilitation to the parole board. The fifteen (15) year parole eligibility designed in SB247 is a reasonable and measured policy choice that makes sense for New Mexico. Fifteen years is consistent with what the New Mexico Supreme Court has proposed on this issue in New Mexico.¹ It has worked for many other states, and FIVE states are currently considering fifteen (15) year parole eligibility bills in their state legislatures. While there are examples of states that have set eligibility for parole further out than 15 years under these types of policies, many of these laws were passed seven or eight years ago, before empirical evidence was available to demonstrate that when parole boards determine that those serving long adult sentences for crimes committed as children have been rehabilitated and can safely return to their communities, the rate of recidivism is a mere 1 percent.² Moreover, it is unhelpful to compare New Mexico to states like Texas and Massachusetts that have drastically different youth justice issues and sentencing schemes.³ Fifteen years works for New Mexico, and the bill deserves support as currently drafted.

Many states have already passed legislation creating release eligibility after 15 or 20 years for people who received lengthy adult sentences for crimes they committed as children, including West Virginia, Nevada, North Dakota, D.C., Oregon, and Virginia.

West Virginia (law passed in 2014) Eliminates life without parole for juveniles and establishes parole eligibility for all juveniles after serving **15 years**.

Nevada (law passed in 2015) Eliminates life without parole for juveniles; establishes parole eligibility for all juveniles after **15 years for non-homicide crimes** and after **20 years for homicide crimes**.

¹ In *Ira v. Janecka*, while recommending that the NM legislature fix the issue of excessive and extreme youth sentences, the New Mexico Supreme Court said “perhaps evaluating the juvenile’s maturity and rehabilitation once the juvenile’s brain has presumably developed is the time frame required by the Eighth Amendment.” 2018-NMSC-027, ¶ 38. The Court then pointed to Nevada and California as examples of successful policy reforms, states which both set parole eligibility at 15 years. ¶ 39.

² Tarika Daftary-Kapur, Ph.D. and Tina M. Zottoli, Ph.D. (2020), “Resentencing of juvenile lifers: The Philadelphia Experiment.” Montclair State University Technical Report.

³ Texas sets eligibility for parole after 40 years, and Massachusetts sets parole eligibility after between 20 to 30 years, depending on the underlying offense. But both Texas and Massachusetts have very different criminal sentencing from NM. For example, second degree murder, which in New Mexico carries a sentence of 15 years, carries a life sentence in both Texas and Massachusetts.

North Dakota (law passed in 2017) Eliminates life without parole for juveniles; judicial review after **20 years**.

District of Columbia (law passed in 2018) All juveniles eligible to petition court for sentence modification after **15 years**.

Oregon (law passed in 2019) Eliminates life without parole for juveniles; establishes parole eligibility for juveniles after **15 years**.

Virginia (law passed in 2020) Eliminates life without parole for juveniles; establishes parole eligibility for juveniles after **20 years**.

Additionally, five other states have legislation currently pending in their state legislatures or legislation is being actively discussed which would provide for parole eligibility after 15 years, just like SB 247.

Rhode Island (pending) - The House Judiciary Committee had an excellent hearing on HB 5144 on March 3, and a favorable, bipartisan vote is anticipated.

Minnesota (pending) - HF 416 is supported by both the Governor's office and the Department of Corrections, and committee hearings are expected shortly.

Missouri (pending) - HB 636 was introduced in January, any has yet to be heard in committee.

Wisconsin (under discussion) - Policymakers are working with lawmakers from both parties to craft language and build support for legislation that would provide 15-year release eligibility for juveniles, and we anticipate a bill being introduced in the next couple of weeks.

Michigan (under discussion) - Policymakers are working with a member of the Senate Judiciary and Public Safety on bill language that we anticipate being introduced soon that will provide for 15-year parole eligibility for people who were sentenced as children.

CONCLUSIONS

SB 247 was already amended to set eligibility at 15 years instead of 10, increasing the minimum period of incarceration by 50% from its original drafting. SB 247 ensures that young people will serve at least as much time as an adult would serve on a second-degree murder charge. A 15-year eligibility guarantees that - before even the chance at review - the 15, 16, and 17-year-olds impacted by this legislation will spend the span of their entire life lived up to that point in an adult prison before receiving a parole hearing.

New Mexico has always been on the forefront of progressive legislation that impacts our young people. We pride ourselves on doing what works for our state, not following other states that are not like us. SB247 is a measured and reasonable approach to resolving this issue in our state based on the kind of adult sentencing patterns in place here. We urge your support on SB 247 on the House floor.