

Assembly Bill No. 251–Assemblymen Hambrick;
Cohen, Edwards, Fumo and Tolles

Joint Sponsor: Senator Parks

CHAPTER.....

AN ACT relating to juvenile offenders; authorizing the State Board of Pardons Commissioners to commute the sentence of a person convicted of any crime that the person committed when he or she was less than 18 years of age; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits the State Board of Pardons Commissioners from commuting a sentence of death or imprisonment in the state prison for life without the possibility of parole to a sentence that would allow parole if a person is convicted of: (1) murder of the first degree before, on or after July 1, 1995; or (2) any crime other than murder of the first degree on or after July 1, 1995. (NRS 213.085) The Nevada Supreme Court has held that to the extent such existing law applies retroactively to a person convicted of murder of the first degree before July 1, 1995, such existing law is unconstitutional because it increases the measure of punishment for murder of the first degree and thereby violates the provision of the United States Constitution that prohibits the passage of ex post facto laws. (*Miller v. Ignacio*, 112 Nev. 930, 937 (1996); U.S. Const. Art. I, § 10)

This bill: (1) revises existing law to conform with the holding in *Miller*; and (2) authorizes the Board to commute a sentence of death or imprisonment in the state prison for life without the possibility of parole to a sentence that would allow parole if a person is convicted of any crime that the person committed when he or she was less than 18 years of age.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 213.085 is hereby amended to read as follows:
213.085 1. If a person is convicted ~~of murder of the first degree before,~~ on or after July 1, 1995, *of any crime that the person committed when he or she was 18 years of age or older*, the Board shall not commute:

- (a) A sentence of death; or
 - (b) A sentence of imprisonment in the state prison for life without the possibility of parole,
- ↳ to a sentence that would allow parole.

2. If a person is convicted of any crime ~~other than murder of the first degree on or after July 1, 1995,~~ *that the person committed*



when he or she was less than 18 years of age, the Board ~~shall not~~ *may, in its discretion*, commute:

- (a) A sentence of death; or
- (b) A sentence of imprisonment in the state prison for life without the possibility of parole,
↳ to a sentence that would allow parole.

Sec. 2. The amendatory provisions of section 1 of this act apply to offenses committed before, on or after October 1, 2017.

