



# Ohio Legislative Service Commission

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## Bill Analysis

Dennis M. Papp

### **Am. H.B. 521**

131st General Assembly  
(As Passed by the House)

**Reps.** Manning, Boyd, Ramos, Rezabek, Rogers, Scherer, K. Smith, R. Smith

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### **BILL SUMMARY**

- Provides special parole eligibility dates for persons with a sentence imposed for an offense committed when the person was less than 18 years of age.
  - Requires the Parole Board to consider specified mitigating factors for persons who are eligible for parole under the special eligibility dates.
  - Requires notice to be provided to the Ohio Public Defender and prosecutor prior to the parole consideration hearing for a prisoner under the special eligibility dates.
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### **CONTENT AND OPERATION**

#### **Introduction**

The Pardon, Parole, and Probation Law specifies when an offender who is imprisoned in a state correctional institution under a life sentence or indefinite sentence becomes eligible for parole and provides the Adult Parole Authority (APA) with the authority, subject to the restrictions and procedures set forth in the Law, to grant an eligible prisoner parole.<sup>1</sup> Currently, a prisoner's eligibility for parole is not affected by the prisoner's age at the time of the prisoner's offense and the APA is not required to consider the prisoner's age at the time of the offense in determining the prisoner's fitness for parole.

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<sup>1</sup> R.C. Chapter 2967.

## Applicability

The bill enacts a section in the Pardon, Parole, and Probation Law that applies to a prisoner who is serving a prison term for an offense or offenses that occurred when the prisoner was less than 18 years of age (hereafter, "prisoner"). Regardless of whether the prisoner's stated prison term includes any mandatory time, the section applies automatically and cannot be limited by the sentencing court.<sup>2</sup>

## Eligibility for parole

The bill sets forth when the prisoner is eligible for parole. This provision of the bill applies notwithstanding any conflicting provision of the Revised Code and applies to determine the parole eligibility of all prisoners who committed an offense prior to, on, or after the bill's effective date, regardless of when the prisoner was sentenced for the offense.<sup>3</sup>

Under the bill, the prisoner is eligible for parole as follows:<sup>4</sup>

(1) If the prisoner's prison term totals at least 15 years and permits parole not later than after 20 years, the prisoner is eligible for parole after serving 15 years in prison.

(2) If the prisoner is serving a sentence that permits parole only after more than 20 years but not later than after 30 years, the prisoner is eligible for parole five years prior to the parole eligibility date stated in the sentence.

(3) If the prisoner's stated prison term totals more than 30 years but does not include a sentence of life without parole, the prisoner is eligible for parole after serving 30 years in prison.

(4) If the prisoner is serving a sentence of life without parole, the prisoner is eligible for parole after serving 35 years in prison.

(5) If the prisoner is serving a sentence described in (1), (2), or (3), above (the bill does not include a reference to a sentence described in (4)), and, upon the effective date of this bill, the applicable parole eligibility date specified by (1), (2), or (3) has been reached, the prisoner is eligible for parole immediately upon the effective date of the bill.

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<sup>2</sup> R.C. 2967.132(A).

<sup>3</sup> R.C. 2967.132(B) and (G).

<sup>4</sup> R.C. 2967.132(B)(1) to (5).



## Consideration of an eligible prisoner's release; mitigating factors

Under the bill, once a prisoner becomes eligible for parole, the Parole Board is required, within a reasonable time after the prisoner becomes eligible, to conduct a hearing to consider the prisoner's release onto parole supervision. The Parole Board is required to conduct the hearing in accordance with the Victim's Rights Law,<sup>5</sup> the Pardon, Parole, and Probation Law, and the APA Law,<sup>6</sup> and in accordance with the Board's policies and procedures. The Parole Board's policies and procedures must permit the prisoner's privately retained counsel or the Ohio Public Defender to appear at the prisoner's hearing to make a statement in support of the prisoner's release.<sup>7</sup>

The bill requires the Parole Board to ensure that the Board's review process provides the prisoner a meaningful opportunity to obtain release. In addition to any other factors the Parole Board is required or authorized to consider by rule or statute, the Board is required to consider the following factors as mitigation:<sup>8</sup>

- (1) The age of the offender at the time of the offense;
- (2) The diminished culpability of youth;
- (3) Common characteristics of youth, including immaturity and failure to appreciate risks and consequences;
- (4) The family and home environment of the offender at the time of the offense;
- (5) Any subsequent growth or increase in the offender's maturity during imprisonment.

If the Parole Board grants the prisoner parole, the Board must impose appropriate terms and conditions of release upon the prisoner as provided under the Pardon, Parole, and Probation Law.<sup>9</sup>

If the Parole Board denies the prisoner release, the Board is required to conduct a subsequent release review not later than ten years after denying release.<sup>10</sup>

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<sup>5</sup> R.C. Chapter 2930.

<sup>6</sup> R.C. Chapter 5149.

<sup>7</sup> R.C. 2967.132(C).

<sup>8</sup> R.C. 2967.132(C)(1) to (5).

<sup>9</sup> R.C. 2967.132(D), and R.C. 2967.131, not in the bill.



## Notification of prisoner's eligibility for review

In addition to any other notice required by rule or statute, the bill requires the Parole Board to notify the Ohio Public Defender and the appropriate prosecuting attorney of a prisoner's eligibility for review under the bill's provisions at least 60 days before the Board begins any review or proceedings involving the prisoner.<sup>11</sup>

## Intent of General Assembly

The bill states that its provisions regarding parole eligibility of a prisoner for offenses committed when the prisoner was under 18 years of age are intended to implement the decisions of the Supreme Court of the United States in *Miller v. Alabama*, 132 S.Ct. 2455, 183 L. Ed. 2d 407 (2012) and *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011, 176 L. Ed. 2d 825 (2010).<sup>12</sup>

## Conforming changes required

The bill specifies that its provisions regarding parole eligibility of a prisoner for offenses committed when the prisoner was under 18 years of age are exceptions to the current law provisions in the Pardon, Parole, and Probation Law governing parole eligibility.<sup>13</sup>

The bill amends the current laws governing the sentencing of a person who is convicted of or pleads guilty to aggravated murder or murder,<sup>14</sup> specified offenses that are subject to the Sexually Violent Predator Sentencing Law,<sup>15</sup> or other felonies,<sup>16</sup> to state that if an offender is sentenced under any of those laws to life imprisonment without parole, life imprisonment, or to an indefinite prison term, the offender's parole eligibility must be determined under the bill's parole eligibility provisions for offenses committed when the offender was less than 18 years at the time of the offense.

The bill also amends the law allowing a Parole Board hearing officer, a Parole Board member, or the Office of Victims' Services to petition the Board for a full Board

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<sup>10</sup> R.C. 2967.132(E).

<sup>11</sup> R.C. 2967.132(F).

<sup>12</sup> Section 3.

<sup>13</sup> R.C. 2967.13.

<sup>14</sup> R.C. 2929.02(C).

<sup>15</sup> R.C. 2971.03(G).

<sup>16</sup> R.C. 2929.14(K).



hearing that relates to a proposed parole or re-parole of a prisoner to specifically include any prisoner described by the bill's parole eligibility provisions for offenses committed when the prisoner was under 18 years of age at the time of the offense.<sup>17</sup>

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## HISTORY

ACTION	DATE
Introduced	04-14-16
Reported, H. Judiciary	05-25-16
Passed by House (92-4)	05-25-16

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<sup>17</sup> R.C. 5149.101.

