



Ohio Legislative Service Commission

Bill Analysis

Greg Schwab

S.B. 272

131st General Assembly
(As Introduced)

Sens. Thomas and Eklund, Lehner, Seitz, Brown, Tavares, Hite

BILL SUMMARY

- Provides special parole eligibility dates for persons with an indefinite or life 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 special parole.
 - Requires notice to be provided to the Ohio Public Defender and prosecutor prior to the parole consideration hearing.
-

CONTENT AND OPERATION

Introduction

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

Applicability

The bill enacts a section in the Pardon, Parole, and Probation Law that is applicable to a prisoner who is serving a prison term for an offense or offenses that

¹ R.C. Chapter 2967.

occurred when the prisoner was less than 18 years of age (hereinafter, "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.²

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 regardless of when the offense or offenses were committed or when the prisoner's sentence was imposed.³

Under the bill, the prisoner is eligible for parole as follows:⁴

(1) If the prisoner's stated prison term totals at least 15 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 15 years or more, the prisoner is eligible for parole after serving 15 years.

(3) If the prisoner is serving a sentence of life without parole, the prisoner is eligible for parole upon attaining 40 years of age.

(4) If the prisoner is serving a sentence described in (1), (2), or (3), above, that is consecutive to another term of imprisonment, the prisoner is eligible for parole on the later date applicable to those sentences, but not later than when the prisoner attains 40 years of age.

(5) If the prisoner is serving a sentence described in (1), (2), (3), or (4), above, and, upon the effective date of this bill, the applicable parole eligibility date specified by (1), (2), (3), or (4), has been reached, the prisoner is eligible for parole immediately upon the effective date of the bill.

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

² R.C. 2967.132(A).

³ R.C. 2967.132(B).

⁴ R.C. 2967.132(B)(1) to (5).



required to conduct the hearing in accordance with the Victim's Rights Law,⁵ the Pardon, Parole, and Probation Law, and the Adult Parole Authority Law,⁶ in accordance with the Parole 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.⁷

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 Parole Board is required to consider the following factors as mitigation:⁸

- (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 Parole Board must impose appropriate terms and conditions of release upon the prisoner as provided under the Pardon, Parole, and Probation Law.⁹

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

⁵ R.C. Chapter 2930.

⁶ R.C. Chapter 5149.

⁷ R.C. 2967.132(C).

⁸ R.C. 2967.132(C)(1) to (5).

⁹ R.C. 2967.132 and 2967.131, not in the bill.

¹⁰ R.C. 2967.132(E).



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 the prisoner's eligibility for review at least 60 days before the Parole Board begins any review or proceedings involving the prisoner.¹¹

Conforming changes required

The bill amends the current law in the Pardon, Parole, and Probation Law governing parole eligibility to make exceptions for offenses committed when the offender was less than 18 years at the time of the offense and that are subject to the bill.¹²

The bill amends the current laws governing the sentencing of a person who is convicted of or pleads guilty to aggravated murder or murder,¹³ specified sex offenses,¹⁴ or other felonies,¹⁵ to state that if an offender is sentenced under the 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, Parole Board member, or the Office of Victims' Services to petition the Parole Board for a full Board hearing that relates to a proposed parole or re-parole of a prisoner to specifically include any prisoner described by the bill.¹⁶

HISTORY

ACTION	DATE
Introduced	02-04-16

S0272-I-131.docx/ks

¹¹ R.C. 2967.132(F).

¹² R.C. 2967.13.

¹³ R.C. 2929.02(C).

¹⁴ R.C. 2971.03(G).

¹⁵ R.C. 2929.14(K).

¹⁶ R.C. 5149.101.

