



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 100
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Thomas

Dennis M. Papp, Attorney

Summary

- Provides special parole eligibility dates for persons serving a prison term imposed for an offense committed when the person was under age 18.
- Requires the Parole Board to consider specified mitigating factors for persons who are eligible for special 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.

Detailed Analysis

Introduction

The Pardon, Parole, and Probation Law¹ specifies when an offender who is imprisoned in a state correctional institution 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. 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.

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 under age 18 (hereafter, "prisoner"). Regardless of whether the prisoner's stated

¹ R.C. Chapter 2967.

prison term includes any mandatory time, the section applies automatically and cannot be limited by the sentencing court.²

Eligibility for parole

In general

The bill sets forth when a 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.³

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

1. If the prisoner's "stated prison term" (see below) 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 age 40.
4. If the prisoner is serving a sentence described in (1), (2), or (3), above, consecutively 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 age 40.
5. If the prisoner is serving a sentence described in (1), (2), (3), or (4), above, and, upon the bill's effective date, the applicable parole eligibility date specified by (1), (2), (3), or (4), has been reached, the prisoner is eligible for parole immediately upon the bill's effective date.

Stated prison term definition

As used in the bill's parole eligibility provisions, a "stated prison term" is the prison term, mandatory prison term, or combination of all prison terms and mandatory prison terms imposed on a convicted felon, including any confinement credit or risk reduction credit received by the offender. As used in this definition, a "prison term" is a definite prison term imposed on an offender for a felony under current law, is the minimum and maximum prison terms imposed on an offender for a first or second degree felony committed on or after March 22, 2019, or is a term of life imprisonment imposed on an offender except to the extent that the use of that definition in a statute clearly is not intended to include a term of life imprisonment.⁵ Note that the first and second types of terms referred to in the definition of "prison term" currently do not have parole eligibility.

² R.C. 2967.132(A)(2).

³ R.C. 2967.132(B) and (G).

⁴ R.C. 2967.132(B)(1) to (5).

⁵ R.C. 2967.01, not in the bill, by reference to R.C. 2929.01, not in the bill.

Consideration of an eligible prisoner's release; mitigating factors

Under the bill, once a prisoner becomes eligible for parole under its provisions described above, 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,⁶ the Pardon, Parole, and Probation Law, and the Adult Parole Authority Law,⁷ 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.⁸

The bill requires the Parole Board to ensure that the 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:⁹

1. The offender's age 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 offender's family and home environment at the time of the offense;
5. Any subsequent growth or increase in the offender's maturity during imprisonment.

Parole Board's decision and subsequent duties

If the Parole Board grants a prisoner parole under the bill, the Board must impose appropriate terms and conditions of release upon the prisoner as provided under a specified existing provision of the Pardon, Parole, and Probation Law.¹⁰

If the Parole Board denies a prisoner release under the bill, the Board is required to conduct a subsequent release review not later than ten years after denying release.¹¹

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 at least 60 days before the Board begins any review or proceedings involving the prisoner under the bill.¹²

⁶ R.C. Chapter 2930, not in the bill.

⁷ R.C. Chapter 5149, not in the bill except for R.C. 5149.101.

⁸ R.C. 2967.132(C).

⁹ R.C. 2967.132(C)(1) to (5).

¹⁰ R.C. 2967.132 and R.C. 2967.131, not in the bill.

¹¹ R.C. 2967.132(E).

¹² R.C. 2967.132(F).

Intent of the General Assembly

The bill states that the General Assembly's intent in enacting the bill's provisions regarding parole eligibility of a prisoner for offenses committed when the prisoner was under age 18 is to implement the decisions of the U.S. Supreme Court in *Miller v. Alabama*, 567 U.S. 460 (2012) and *Graham v. Florida*, 560 U.S. 48 (2010).¹³

Conforming changes required

The bill specifies that its provisions regarding parole eligibility of a prisoner for offenses committed when the prisoner was under age 18 are exceptions to the current law provisions in the Pardon, Parole, and Probation Law governing parole eligibility.¹⁴

The bill amends the current laws governing the sentencing of a person who is convicted of or pleads guilty to aggravated murder or murder,¹⁵ specified offenses that are subject to the Sexually Violent Predator Sentencing Law,¹⁶ or other felonies,¹⁷ 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 (see **Comment**), the offender's parole eligibility must be determined under the bill's parole eligibility provisions for offenses committed when the offender was under age 18 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 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's parole eligibility provisions for offenses committed when the prisoner was under age 18 at the time of the offense.¹⁸

Comment

S.B. 201 of the 132nd General Assembly, the Reagan Tokes Law, modified the Felony Sentencing Law (effective March 22, 2019) by providing for indefinite prison terms for offenders sentenced to prison for a first or second degree felony committed on or after the act's effective date, with presumptive release at the end of the minimum term imposed. The indefinite terms do not have parole eligibility. The bill probably should clarify whether the indefinite prison terms to which it refers include any indefinite prison term imposed under S.B. 201's provisions.

¹³ R.C. 2967.132(A)(1).

¹⁴ R.C. 2967.13.

¹⁵ R.C. 2929.02(C).

¹⁶ R.C. 2971.03(G).

¹⁷ R.C. 2929.14(L).

¹⁸ R.C. 5149.101.

History

Action	Date
Introduced	03-11-19
