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## **OLR Bill Analysis**

### **sHB 6581**

#### ***AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH.***

#### **SUMMARY:**

This bill establishes parole eligibility rules for someone who (1) committed a crime when he or she was under age 18 and (2) was sentenced to more than 10 years in prison. These rules apply as an alternative to existing rules if they make someone eligible for parole sooner. They also apply retroactively regardless of when inmates were sentenced and apply to those convicted of crimes that are otherwise ineligible for parole.

The bill requires a parole hearing for an offender who meets these eligibility requirements and a public defender to represent an indigent inmate at the hearing. It requires the Board of Pardons and Paroles to:

1. have certain information before making a decision,
2. consider certain criteria in order to release such an offender,
3. explain a parole denial, and
4. reassess a person's suitability for parole after a denial at a time determined by the board.

EFFECTIVE DATE: October 1, 2013

#### **PAROLE ELIGIBILITY**

Currently, someone is eligible for parole after serving (1) 50% of his or her sentence minus any risk reduction credits earned if convicted of a non-violent crime and (2) 85% of his or her sentence if convicted of a violent crime, home invasion, or 2<sup>nd</sup> degree burglary. Someone

convicted of the following crimes is ineligible for parole: murder, capital felony, murder with special circumstances, felony murder, arson murder, or 1<sup>st</sup> degree aggravated sexual assault.

The bill establishes alternative parole eligibility rules that can make someone eligible for parole sooner if he or she (1) committed a crime when he or she was under age 18 and (2) was sentenced to more than 10 years in prison. Under these rules, someone sentenced to:

1. up to 60 years in prison is eligible for parole after serving the greater of 10 years or half of his or her sentence or
2. more than 60 years in prison is eligible for parole after serving 30 years minus any risk reduction earned credits earned.

The bill applies retroactively regardless of when inmates were sentenced and applies to those convicted of crimes that are otherwise ineligible for parole. But the eligibility rules only apply to sentences for crimes committed when a person was under age 18. They do not apply to any portion of a sentence imposed for a crime committed when the person was age 18 or older. Existing parole eligibility rules apply to such a sentence.

### **REQUIRED PAROLE HEARING**

The bill requires (1) a parole hearing when someone becomes parole eligible under the bill's provisions and (2) the board to notify the Chief Public Defender's Office and appropriate state's attorney at least 12 months before the hearing. The Chief Public Defender's Office must provide counsel for an indigent person.

At the hearing, the bill requires the board to permit:

1. the inmate to make a statement;
2. the inmate's counsel and state's attorney to submit reports and documents; and
3. a victim of the person's crime to make a statement, as with other parole hearings.

The board may also request (1) testimony from mental health professionals and relevant witnesses and (2) reports from the Department of Correction (DOC) or others. The board must use a validated risk and needs assessment tool and risk-based structured decision making and release criteria (existing law requires the board's chairwoman to adopt policies on these topics).

### **PAROLE RELEASE DECISIONS**

After the hearing, the bill allows the board to release someone on parole if it:

1. is consistent with (a) enhancing public safety while holding an offender accountable to the community; (b) reflecting the offense's seriousness and being proportional to the harm to victims and the community; (c) using the most appropriate sanctions available, including prison, community punishment, and supervision; (d) having an overriding goal of reducing criminal activity, imposing just punishment, and providing meaningful and effective rehabilitation and reintegration of the offender; and (e) being fair, just, and equitable while promoting respect for the law;
2. appears from all available information, including DOC reports, that (a) there is a reasonable probability the person will live and remain at liberty without violating the law and (b) the benefits to the person and society from release to community supervision substantially outweigh the benefits from continued confinement; and
3. appears from all available information, including DOC reports, that the person shows substantial rehabilitation since committing the crimes considering the person's character, background, and history including (a) the person's prison record, age, and circumstances at the time of committing the crime; (b) whether he or she showed remorse and increased maturity since committing the crime; (c) his or her contributions to others' welfare through service; (d) his or her efforts to

overcome substance abuse, addiction, trauma, lack of education, or obstacles he or she faced as a child or youth in prison; (e) the opportunities for rehabilitation in prison; and (f) the overall degree of his or her rehabilitation considering the nature and circumstances of the crime.

The bill requires the board, if it does not release an offender, to articulate specific reasons for the record why the person and public would not benefit from the person serving on parole as a transition from prison to the community. The bill requires the board to reassess the person's suitability at a later time determined by the board.

The bill specifies that the board's decisions under these provisions are not appealable.

## **BACKGROUND**

### ***Risk Reduction Credits***

By law, inmates can earn risk reduction earned credits except for those convicted of murder, capital felony, felony murder, arson murder, 1<sup>st</sup> degree aggravated sexual assault, or home invasion. The DOC commissioner can award up to five days of credit per month for (1) adhering to the offender's accountability plan, (2) participating in eligible programs and activities, and (3) good conduct and obeying institutional rules as designated by the commissioner (but good conduct and obedience alone is not enough to earn credits). An inmate can lose all or some of his or her credits. Credits reduce the inmate's maximum prison sentence but cannot reduce a mandatory minimum sentence. Credits can also make an inmate eligible for parole sooner, but, as of July 1, 2013, cannot be used by those convicted of violent crimes for this purpose.

### ***Related Cases—U.S. Supreme Court***

In *Graham v. Florida*, the U.S. Supreme Court ruled that the Eighth Amendment prohibition against cruel and unusual punishment prohibits states from imposing sentences of life without parole for defendants younger than age 18 for non-homicide crimes. The Court stated that there must be "some meaningful opportunity" for release

based on a defendant's demonstrated maturity and rehabilitation. The Court stated that the Eighth Amendment does not prohibit a juvenile who commits a non-homicide crime from being kept in prison for life but it does prohibit making the judgment "at the outset that those offenders never will be fit to re-enter society" (130 S.Ct. 2011 (2010)).

In *Miller v. Alabama*, the U.S. Supreme Court held that the Eighth Amendment prohibits courts from automatically imposing life without parole sentences on offenders who committed homicides while they were juveniles (under age 18). The Court did not categorically bar life without parole sentences for juveniles but stated that a court must "take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison" (132 S.Ct. 2455 (2012)).

**Related Bill**

sSB 1062, favorably reported by the Judiciary Committee, among other things, (1) retroactively eliminates life sentences for capital felony, murder with special circumstances, and arson murder for offenders who committed these crimes when they were under age 18 and (2) requires a court to consider certain factors when sentencing someone who was between ages 14 and 18 at the time of committing a crime.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 29 Nay 15 (04/16/2013)