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## OLR Bill Analysis

### SB 952

#### ***AN ACT CONCERNING PAROLE ELIGIBILITY FOR AN INDIVIDUAL SERVING A LENGTHY SENTENCE FOR A CRIME COMMITTED BEFORE THE INDIVIDUAL REACHED THE AGE OF TWENTY-FIVE.***

#### **SUMMARY**

This bill broadens parole eligibility for certain offenders who were under age 25 when they committed the crime.

Under current law, offenders serving a definite or total effective sentence of more than 10 years for crimes committed before age 18 are eligible for parole under certain circumstances. The bill extends parole eligibility under these circumstances to offenders who were age 18, 19, 20, 21, 22, 23, or 24 when the crime was committed.

The bill correspondingly applies to this new age cohort existing law's parole eligibility rules and requirements on the parole hearing and release decisions.

EFFECTIVE DATE: October 1, 2023

#### **PAROLE ELIGIBILITY**

##### ***Alternate Parole Rules***

Current law sets parole eligibility rules specifically for someone who commits a crime under age 18 and is sentenced to more than 10 years in prison. The bill increases, from age 18 to age 25, the age up to which this eligibility rule applies.

As is the case under existing law, under the bill, these rules apply if they make someone eligible for parole sooner than under existing law, including someone who would otherwise be ineligible for parole. Under these rules, someone sentenced to:

1. 10 to 50 years in prison is eligible for parole after serving the

greater of 12 years or 60% of his or her sentence or

2. more than 50 years in prison is eligible for parole after serving 30 years.

Under existing law, these rules apply to offenders incarcerated on and after October 1, 2015, regardless of when the crime was committed, or the offender sentenced. Under current law, the eligibility rules do not apply to any portion of a sentence imposed for a crime committed when the person was age 18 or older. The bill extends this limitation to any portion of a sentence imposed for a crime committed when the person was age 25 or older.

### ***Required Hearing***

As is the case under existing law for offenders who were under age 18, in cases involving 18-, 19-, 20-, 21-, 22-, 23-, and 24-year-old offenders, the bill requires (1) a parole hearing when someone becomes parole-eligible and (2) the board to notify, at least 12 months before the hearing, the Chief Public Defender's Office, appropriate state's attorney, Department of Correction's (DOC) Victim Services Unit, Office of Victim Advocate, and Judicial Branch's Office of Victim Services. The Chief Public Defender's Office must provide counsel for an indigent inmate.

At the hearing, the law requires the board to allow:

1. the inmate to make a statement;
2. the inmate's counsel and state's attorney to submit reports and documents; and
3. any 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 DOC or others. The board must use validated risk and needs assessment tools and risk-based structured decision making and release criteria.

### ***Release Decisions***

After the hearing, the law allows the board to release the inmate on parole if:

1. the release (a) holds the offender accountable to the community without compromising public safety; (b) reflects the offense's seriousness and makes the sentence proportional to the harm to victims and the community; (c) uses the most appropriate sanctions available, including prison, community punishment, and supervision; (d) could reduce criminal activity, impose just punishment, and provide the offender with meaningful and effective rehabilitation and reintegration; and (e) is fair and promotes respect for the law;
2. it appears from all available information, including DOC reports, that (a) there is a reasonable probability the offender will not violate the law again and (b) the benefits of release to the offender and society substantially outweigh the benefits from continued confinement; and
3. it appears from all available information, including DOC reports, that the offender is substantially rehabilitated, considering his or her character, background, and history, including (a) the offender's prison record, age, and circumstances at the time of committing the crime; (b) whether he or she has shown remorse and increased maturity since committing the crime; (c) his or her contributions to others' welfare through service; (d) the opportunities for rehabilitation in prison; (e) the overall degree of his or her rehabilitation considering the nature and circumstances of the crime; and (f) his or her efforts to overcome substance abuse, addiction, trauma, lack of education, or obstacles he or she faced.

Under current law, the board's consideration of the persons' efforts to overcome obstacles applies to those the person faced as a child or youth in prison. The bill correspondingly requires the board to consider the person's efforts to overcome substance abuse, addiction, trauma,

lack of education, or obstacles he or she faced as a person under age 25 in prison.

By law, the board must articulate reasons for its decision on the record. If the board denies parole, it may reassess the person's suitability for a hearing at a later time it determines but no sooner than two years after the denial.

By law, the board's decisions under these provisions are not appealable.

## **BACKGROUND**

A series of U.S. and Connecticut Supreme Court decisions were the impetus to changing the law in 2015 to establish the alternate parole eligibility rules for offenders who were under age 18 when the crime was committed.

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

In *Graham v. Florida*, the U.S. Supreme Court ruled that the Eighth Amendment's prohibition against cruel and unusual punishment prohibits states from sentencing defendants under age 18 to life without parole 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. It said that the Eighth Amendment does not prohibit a juvenile who commits a non-homicide crime from being kept in prison for life but it prohibits 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 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 Cases — Connecticut Supreme Court**

In *State v. Riley*, the Connecticut Supreme Court considered how the U.S. Supreme Court’s rulings applied to someone convicted of committing homicide and non-homicide crimes while a juvenile. The juvenile in this case received a cumulative 100-year prison sentence. The court ruled that even when a court has discretion in sentencing, as it did in this case, *Miller* requires consideration of the juvenile’s youth as mitigation before sentencing the juvenile to the functional equivalent of a life sentence without the possibility of release. Because the sentencing court did not consider the factors of youth, the court ordered a new sentencing hearing.

In deference to the legislature and because the new sentence the defendant would receive was uncertain, the court did not consider whether the U.S. Supreme Court’s decision in *Graham* would require an opportunity for release when a juvenile is sentenced to the functional equivalent of life in prison (315 Conn. 637 (2015)).

In *Casiano v. Commissioner of Correction*, the Connecticut Supreme Court ruled that *Miller’s* requirements to consider certain factors of youth at sentencing apply (1) retroactively to juvenile offenders seeking collateral review of sentences imposed before the U.S. Supreme Court issued its ruling in *Miller* and (2) to a juvenile who received a total effective sentence of 50 years in prison without eligibility for parole (317 Conn. 52 (2015)).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 25 Nay 12 (03/27/2023)