
OLR Bill Analysis

SB 952 (File 508, as amended by House "A" and Senate "A")*

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 makes unrelated changes to laws on eligibility for (1) parole and (2) criminal record erasure for driving under the influence (DUI).

It broadens parole eligibility for certain offenders who were under age 21 when they committed the crime.

Under current law, an offender sentenced on or after October 1, 2015, and serving a definite or total effective sentence of more than 10 years for crimes committed before, on, or after October 1, 2015, when the person was under age 18 is eligible for parole under certain circumstances. The bill extends parole eligibility to offenders who (1) were under age 21 when the crime was committed; (2) are serving a definite or total effective sentence of more than 10 years for crimes committed on or before October 1, 2005; and (3) were sentenced on or before October 1, 2005.

It correspondingly applies to this new age group existing law's parole eligibility rules and requirements on parole hearing and release decisions.

The bill also (1) specifies that DUI is not eligible for automatic criminal record erasure until 10 years after the person's most recent conviction and (2) makes DUI convictions ineligible for erasure if the person has a second DUI conviction within 10 years.

It also makes technical and conforming changes.

*Senate Amendment "A" reduces, from 25 to 21 years, the age up to

which the underlying bill would have broadened parole eligibility for certain offenders.

*House Amendment "A" (1) limits the underlying bill's parole eligibility for offenders under age 21 to crimes committed and sentences imposed on or before October 1, 2005, and (2) adds provisions on DUI and criminal record erasure.

EFFECTIVE DATE: October 1, 2023, except the DUI record erasure provision is effective July 1, 2023.

PAROLE ELIGIBILITY

Alternate Parole Rules

Current law sets parole eligibility rules specifically for someone who commits a crime while under age 18 and is sentenced to more than 10 years in prison. The bill extends parole eligibility to offenders who (1) were under age 21 when the crime was committed; (2) are serving a definite or total effective sentence of more than 10 years for crimes committed on or before October 1, 2005; and (3) were sentenced on or before October 1, 2005.

As under existing law, the bill applies these rules 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 was 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 21 or older.

Required Hearing

As is the case under existing law for offenders who were under age 18, in cases involving offenders under age 21, the bill requires (1) a parole hearing when someone becomes parole-eligible and (2) the Board of Pardons and Paroles 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 the 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.

The bill specifies that in release decisions for offenders under age 18 under current law, and those under age 21 under the bill, the consideration given to whether the person rehabilitated in adult prison applies even if he or she also applied for or received a sentence modification.

As under existing law for offenders who were under age 18, 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. The board's decisions under these provisions are not appealable.

DUI AND CRIMINAL RECORD ERASURE

Existing law provides a process, not yet fully operational, to erase

records of most misdemeanor convictions and certain felony convictions after a specified period following the person's most recent conviction. sHB 6918 of the current session, as amended and passed by the House, specifies that motor vehicle violations are generally covered by the law in the same way as misdemeanors or felonies (i.e., either seven or 10 years after the person's most recent conviction).

This bill creates an exception, making driving under the influence (DUI) ineligible for erasure until 10 years after the person's most recent conviction. Under sHB 6918 as amended, a first conviction for DUI is eligible seven years after the person's most recent conviction.

The bill also makes a DUI conviction ineligible for erasure if the defendant has a second DUI within the following 10 years. It replaces a provision in sHB 6918, as amended, that instead makes a DUI conviction ineligible for erasure if it occurred within 10 years before any additional DUI arrest.

BACKGROUND

Related Cases

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.

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 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)).

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)

