



# Senate

General Assembly

**File No. 508**

January Session, 2023

Senate Bill No. 952

*Senate, April 12, 2023*

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***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.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 54-125a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective October*  
3 *1, 2023*):

4 (f) (1) Notwithstanding the provisions of subsections (a) to (e),  
5 inclusive, of this section, a person convicted of one or more crimes  
6 committed while such person was under [eighteen] twenty-five years of  
7 age, who is incarcerated on or after October 1, 2015, and who received a  
8 definite sentence or total effective sentence of more than ten years for  
9 such crime or crimes prior to, on or after October 1, 2015, may be  
10 allowed to go at large on parole in the discretion of the panel of the  
11 Board of Pardons and Paroles for the institution in which such person is  
12 confined, provided (A) if such person is serving a sentence of fifty years  
13 or less, such person shall be eligible for parole after serving sixty per

14 cent of the sentence or twelve years, whichever is greater, or (B) if such  
15 person is serving a sentence of more than fifty years, such person shall  
16 be eligible for parole after serving thirty years. Nothing in this  
17 subsection shall limit a person's eligibility for parole release under the  
18 provisions of subsections (a) to (e), inclusive, of this section if such  
19 person would be eligible for parole release at an earlier date under any  
20 of such provisions.

21 (2) The board shall apply the parole eligibility rules of this subsection  
22 only with respect to the sentence for a crime or crimes committed while  
23 a person was under [eighteen] twenty-five years of age. Any portion of  
24 a sentence that is based on a crime or crimes committed while a person  
25 was [eighteen] twenty-five years of age or older shall be subject to the  
26 applicable parole eligibility, suitability and release rules set forth in  
27 subsections (a) to (e), inclusive, of this section.

28 (3) Whenever a person becomes eligible for parole release pursuant  
29 to this subsection, the board shall hold a hearing to determine such  
30 person's suitability for parole release. At least twelve months prior to  
31 such hearing, the board shall notify the office of Chief Public Defender,  
32 the appropriate state's attorney, the Victim Services Unit within the  
33 Department of Correction, the Office of the Victim Advocate and the  
34 Office of Victim Services within the Judicial Department of such  
35 person's eligibility for parole release pursuant to this subsection. The  
36 office of Chief Public Defender shall assign counsel for such person  
37 pursuant to section 51-296 if such person is indigent. At any hearing to  
38 determine such person's suitability for parole release pursuant to this  
39 subsection, the board shall permit (A) such person to make a statement  
40 on such person's behalf, (B) counsel for such person and the state's  
41 attorney to submit reports and other documents, and (C) any victim of  
42 the crime or crimes to make a statement pursuant to section 54-126a. The  
43 board may request testimony from mental health professionals or other  
44 relevant witnesses, and reports from the Commissioner of Correction or  
45 other persons, as the board may require. The board shall use validated  
46 risk assessment and needs assessment tools and its risk-based  
47 structured decision making and release criteria established pursuant to

48 subsection (d) of section 54-124a in making a determination pursuant to  
49 this subsection.

50 (4) After such hearing, the board may allow such person to go at large  
51 on parole with respect to any portion of a sentence that was based on a  
52 crime or crimes committed while such person was under [eighteen]  
53 twenty-five years of age if the board finds that such parole release  
54 would be consistent with the factors set forth in subdivisions (1) to (4),  
55 inclusive, of subsection (c) of section 54-300 and if it appears, from all  
56 available information, including, but not limited to, any reports from the  
57 Commissioner of Correction, that (A) there is a reasonable probability  
58 that such person will live and remain at liberty without violating the  
59 law, (B) the benefits to such person and society that would result from  
60 such person's release to community supervision substantially outweigh  
61 the benefits to such person and society that would result from such  
62 person's continued incarceration, and (C) such person has demonstrated  
63 substantial rehabilitation since the date such crime or crimes were  
64 committed considering such person's character, background and  
65 history, as demonstrated by factors, including, but not limited to, such  
66 person's correctional record, the age and circumstances of such person  
67 as of the date of the commission of the crime or crimes, whether such  
68 person has demonstrated remorse and increased maturity since the date  
69 of the commission of the crime or crimes, such person's contributions to  
70 the welfare of other persons through service, such person's efforts to  
71 overcome substance abuse, addiction, trauma, lack of education or  
72 obstacles that such person may have faced as a [child or youth] person  
73 under twenty-five years of age in the adult correctional system, the  
74 opportunities for rehabilitation in the adult correctional system and the  
75 overall degree of such person's rehabilitation considering the nature and  
76 circumstances of the crime or crimes.

77 (5) After such hearing, the board shall articulate for the record its  
78 decision and the reasons for its decision. If the board determines that  
79 continued confinement is necessary, the board may reassess such  
80 person's suitability for a new parole hearing at a later date to be  
81 determined at the discretion of the board, but not earlier than two years

82 after the date of its decision.

83 (6) The decision of the board under this subsection shall not be subject  
84 to appeal.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2023</i>	54-125a(f)

**JUD**      *Joint Favorable*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Correction, Dept.	GF - Potential Savings	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill broadens parole eligibility for certain offenders who were under age 25 when they committed a crime resulting in a potential marginal savings to the Department of Correction to the extent that additional inmates are granted parole. On average, the annual marginal savings to the state for releasing an offender is \$2,500.<sup>1</sup>

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of inmates who meet the expanded criteria and are granted parole.

<sup>1</sup> Inmate marginal savings is based on decreased consumables (e.g. food, clothing, water, sewage, living supplies, etc.). This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility closed.

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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)