



PA 23-169—SB 952

Judiciary Committee

AN ACT CONCERNING PAROLE ELIGIBILITY FOR AN INDIVIDUAL SERVING A LENGTHY SENTENCE FOR A CRIME COMMITTED BEFORE THE INDIVIDUAL REACHED THE AGE OF TWENTY-ONE AND CRIMINAL HISTORY RECORDS ERASURE

SUMMARY: This act makes unrelated changes to laws on eligibility for (1) parole and (2) criminal record erasure for driving under the influence (DUI). It also broadens parole eligibility for certain offenders who were under age 21 when they committed the crime.

Under existing law and certain circumstances, 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. The act 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 existing law's parole eligibility rules and requirements on parole hearing and release decisions to this new age group.

The act also specifies that DUI is not eligible for automatic criminal record erasure until 10 years after the person's most recent conviction. Additionally, it makes DUI convictions ineligible for erasure if the person has a second DUI conviction within 10 years.

It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2023, except the DUI record erasure provisions are effective July 1, 2023.

PAROLE ELIGIBILITY

Alternate Parole Rules

Existing 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 act 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 act 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

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her sentence or (2) more than 50 years in prison is eligible for parole after serving 30 years.

Under existing law, the rules apply to offenders incarcerated on and after October 1, 2015, regardless of when the crime was committed or the offender was sentenced. Under prior law, the alternate parole eligibility rules did not apply to any portion of a sentence imposed for a crime committed when the person was age 18 or older. The act extends the applicability of the alternate parole eligibility rules to any portion of a sentence imposed for a crime committed when the person was age 18, 19, or 20 if the crimes were committed on or before October 1, 2005, as described above.

Required Hearing

As is the case under existing law for offenders who were under age 18, in cases involving offenders under age 21 the act 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 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 the following conditions are met:

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

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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) rehabilitation opportunities he or she took 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 act specifies that the board must consider whether an offender applied for or received a sentence modification when considering whether the person demonstrates rehabilitation. This requirement applies to release decisions for offenders under age 18 under existing law and under age 21 under the act.

Under the act, as under existing law for offenders who were under age 18, for offenders who were under age 21 the board (1) must articulate reasons for its decision on the record and (2) at its discretion, may reassess the person's suitability for a hearing at least two years after a denial. By law, 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. Among other things, PA 23-134 specifies that motor vehicle violations are generally covered by the erasure law in the same way as misdemeanors or felonies (i.e., either seven or 10 years after the person's most recent conviction).

Under PA 23-134, a first DUI conviction (which has criminal penalties equivalent to a misdemeanor) was eligible for erasure seven years after the person's most recent conviction. This act instead makes DUI ineligible for erasure until 10 years after the person's most recent conviction in all cases.

This act 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 PA 23-134 that instead made a DUI conviction ineligible for erasure if it occurred within 10 years before any additional DUI arrest.

BACKGROUND

Related Act

PA 23-20, § 119, contains the same provisions on DUI record erasure.