

# HB5670



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5670

by Rep. Rita Mayfield

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4.5-115

Amends the Unified Code of Corrections. Provides that a person under 21 years of age at the time of the commission of the offense of predatory criminal sexual assault of a child is eligible (rather than not eligible) for parole review by the Prisoner Review Board after serving 20 years or more of his or her sentence or sentences. Provides that a person who was under the age of 21 and is serving a sentence for first degree murder or a term of natural life imprisonment shall be eligible for parole review by the Prisoner Review Board after serving 40 years or more of his or her sentence or sentences.

LRB101 17822 RLC 67254 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by  
5 changing Section 5-4.5-115 as follows:

6 (730 ILCS 5/5-4.5-115)

7 Sec. 5-4.5-115. Parole review of persons under the age of  
8 21 at the time of the commission of an offense.

9 (a) For purposes of this Section, "victim" means a victim  
10 of a violent crime as defined in subsection (a) of Section 3 of  
11 the Rights of Crime Victims and Witnesses Act including a  
12 witness as defined in subsection (b) of Section 3 of the Rights  
13 of Crime Victims and Witnesses Act; any person legally related  
14 to the victim by blood, marriage, adoption, or guardianship;  
15 any friend of the victim; or any concerned citizen.

16 (b) A person under 21 years of age at the time of the  
17 commission of an offense or offenses, other than first degree  
18 murder, and who is not serving a sentence for first degree  
19 murder and who is sentenced on or after June 1, 2019 (the  
20 effective date of Public Act 100-1182) shall be eligible for  
21 parole review by the Prisoner Review Board after serving 10  
22 years or more of his or her sentence or sentences, except for  
23 those serving a sentence or sentences for: ~~(1)~~ aggravated

1 criminal sexual assault or predatory criminal sexual assault of  
2 a child, who shall be eligible for parole review by the  
3 Prisoner Review Board after serving 20 years or more of his or  
4 her sentence or sentences ~~or (2) predatory criminal sexual~~  
5 ~~assault of a child who shall not be eligible for parole review~~  
6 ~~by the Prisoner Review Board under this Section.~~ A person under  
7 21 years of age at the time of the commission of first degree  
8 murder who is sentenced on or after June 1, 2019 (the effective  
9 date of Public Act 100-1182) shall be eligible for parole  
10 review by the Prisoner Review Board after serving 20 years or  
11 more of his or her sentence or sentences, except for those  
12 subject to a term of natural life imprisonment under Section  
13 5-8-1 of this Code or any person subject to sentencing under  
14 subsection (c) of Section 5-4.5-105 of this Code, who shall be  
15 eligible for parole review by the Prisoner Review Board after  
16 serving 40 years or more of his or her sentence or sentences.

17 (c) Three years prior to becoming eligible for parole  
18 review, the eligible person may file his or her petition for  
19 parole review with the Prisoner Review Board. The petition  
20 shall include a copy of the order of commitment and sentence to  
21 the Department of Corrections for the offense or offenses for  
22 which review is sought. Within 30 days of receipt of this  
23 petition, the Prisoner Review Board shall determine whether the  
24 petition is appropriately filed, and if so, shall set a date  
25 for parole review 3 years from receipt of the petition and  
26 notify the Department of Corrections within 10 business days.

1 If the Prisoner Review Board determines that the petition is  
2 not appropriately filed, it shall notify the petitioner in  
3 writing, including a basis for its determination.

4 (d) Within 6 months of the Prisoner Review Board's  
5 determination that the petition was appropriately filed, a  
6 representative from the Department of Corrections shall meet  
7 with the eligible person and provide the inmate information  
8 about the parole hearing process and personalized  
9 recommendations for the inmate regarding his or her work  
10 assignments, rehabilitative programs, and institutional  
11 behavior. Following this meeting, the eligible person has 7  
12 calendar days to file a written request to the representative  
13 from the Department of Corrections who met with the eligible  
14 person of any additional programs and services which the  
15 eligible person believes should be made available to prepare  
16 the eligible person for return to the community.

17 (e) One year prior to the person being eligible for parole,  
18 counsel shall be appointed by the Prisoner Review Board upon a  
19 finding of indigency. The eligible person may waive appointed  
20 counsel or retain his or her own counsel at his or her own  
21 expense.

22 (f) Nine months prior to the hearing, the Prisoner Review  
23 Board shall provide the eligible person, and his or her  
24 counsel, any written documents or materials it will be  
25 considering in making its decision unless the written documents  
26 or materials are specifically found to: (1) include information

1 which, if disclosed, would damage the therapeutic relationship  
2 between the inmate and a mental health professional; (2)  
3 subject any person to the actual risk of physical harm; (3)  
4 threaten the safety or security of the Department or an  
5 institution. In accordance with Section 4.5(d)(4) of the Rights  
6 of Crime Victims and Witnesses Act and Section 10 of the Open  
7 Parole Hearings Act, victim statements provided to the Board  
8 shall be confidential and privileged, including any statements  
9 received prior to the effective date of this amendatory Act of  
10 the 101st General Assembly, except if the statement was an oral  
11 statement made by the victim at a hearing open to the public.  
12 Victim statements shall not be considered public documents  
13 under the provisions of the Freedom of Information Act. The  
14 inmate or his or her attorney shall not be given a copy of the  
15 statement, but shall be informed of the existence of a victim  
16 statement and the position taken by the victim on the inmate's  
17 request for parole. This shall not be construed to permit  
18 disclosure to an inmate of any information which might result  
19 in the risk of threats or physical harm to a victim. The  
20 Prisoner Review Board shall have an ongoing duty to provide the  
21 eligible person, and his or her counsel, with any further  
22 documents or materials that come into its possession prior to  
23 the hearing subject to the limitations contained in this  
24 subsection.

25 (g) Not less than 12 months prior to the hearing, the  
26 Prisoner Review Board shall provide notification to the State's

1 Attorney of the county from which the person was committed and  
2 written notification to the victim or family of the victim of  
3 the scheduled hearing place, date, and approximate time. The  
4 written notification shall contain: (1) information about  
5 their right to be present, appear in person at the parole  
6 hearing, and their right to make an oral statement and submit  
7 information in writing, by videotape, tape recording, or other  
8 electronic means; (2) a toll-free number to call for further  
9 information about the parole review process; and (3)  
10 information regarding available resources, including  
11 trauma-informed therapy, they may access. If the Board does not  
12 have knowledge of the current address of the victim or family  
13 of the victim, it shall notify the State's Attorney of the  
14 county of commitment and request assistance in locating the  
15 victim or family of the victim. Those victims or family of the  
16 victims who advise the Board in writing that they no longer  
17 wish to be notified shall not receive future notices. A victim  
18 shall have the right to submit information by videotape, tape  
19 recording, or other electronic means. The victim may submit  
20 this material prior to or at the parole hearing. The victim  
21 also has the right to be heard at the parole hearing.

22 (h) The hearing conducted by the Prisoner Review Board  
23 shall be governed by Sections 15 and 20, subsection (f) of  
24 Section 5, subsections (a), (a-5), (b), (b-5), and (c) of  
25 Section 10, and subsection (d) of Section 25 of the Open Parole  
26 Hearings Act and Part 1610 of Title 20 of the Illinois

1 Administrative Code. The eligible person has a right to be  
2 present at the Prisoner Review Board hearing, unless the  
3 Prisoner Review Board determines the eligible person's  
4 presence is unduly burdensome when conducting a hearing under  
5 paragraph (6.6) of subsection (a) of Section 3-3-2 of this  
6 Code. If a psychological evaluation is submitted for the  
7 Prisoner Review Board's consideration, it shall be prepared by  
8 a person who has expertise in adolescent brain development and  
9 behavior, and shall take into consideration the diminished  
10 culpability of youthful offenders, the hallmark features of  
11 youth, and any subsequent growth and increased maturity of the  
12 person. At the hearing, the eligible person shall have the  
13 right to make a statement on his or her own behalf.

14 (i) Only upon motion for good cause shall the date for the  
15 Prisoner Review Board hearing, as set by subsection (b) of this  
16 Section, be changed. No less than 15 days prior to the hearing,  
17 the Prisoner Review Board shall notify the victim or victim  
18 representative, the attorney, and the eligible person of the  
19 exact date and time of the hearing. All hearings shall be open  
20 to the public.

21 (j) The Prisoner Review Board shall not parole the eligible  
22 person if it determines that:

23 (1) there is a substantial risk that the eligible  
24 person will not conform to reasonable conditions of parole  
25 or aftercare release; or

26 (2) the eligible person's release at that time would

1 deprecate the seriousness of his or her offense or promote  
2 disrespect for the law; or

3 (3) the eligible person's release would have a  
4 substantially adverse effect on institutional discipline.

5 In considering the factors affecting the release  
6 determination under 20 Ill. Adm. Code 1610.50(b), the Prisoner  
7 Review Board panel shall consider the diminished culpability of  
8 youthful offenders, the hallmark features of youth, and any  
9 subsequent growth and maturity of the youthful offender during  
10 incarceration.

11 (k) Unless denied parole under subsection (j) of this  
12 Section and subject to the provisions of Section 3-3-9 of this  
13 Code: (1) the eligible person serving a sentence for any  
14 non-first degree murder offense or offenses, shall be released  
15 on parole which shall operate to discharge any remaining term  
16 of years sentence imposed upon him or her, notwithstanding any  
17 required mandatory supervised release period the eligible  
18 person is required to serve; and (2) the eligible person  
19 serving a sentence for any first degree murder offense, shall  
20 be released on mandatory supervised release for a period of 10  
21 years subject to Section 3-3-8, which shall operate to  
22 discharge any remaining term of years sentence imposed upon him  
23 or her, however in no event shall the eligible person serve a  
24 period of mandatory supervised release greater than the  
25 aggregate of the discharged underlying sentence and the  
26 mandatory supervised release period as sent forth in Section



1 5-4.5-20.

2 (l) If the Prisoner Review Board denies parole after  
3 conducting the hearing under subsection (j) of this Section, it  
4 shall issue a written decision which states the rationale for  
5 denial, including the primary factors considered. This  
6 decision shall be provided to the eligible person and his or  
7 her counsel within 30 days.

8 (m) A person denied parole under subsection (j) of this  
9 Section, who is not serving a sentence for ~~either~~ first degree  
10 murder, ~~or~~ aggravated criminal sexual assault, or predatory  
11 criminal sexual assault of a child, shall be eligible for a  
12 second parole review by the Prisoner Review Board 5 years after  
13 the written decision under subsection (l) of this Section; a  
14 person denied parole under subsection (j) of this Section, who  
15 is serving a sentence or sentences for first degree murder, ~~or~~  
16 aggravated criminal sexual assault, or predatory criminal  
17 sexual assault of a child shall be eligible for a second and  
18 final parole review by the Prisoner Review Board 10 years after  
19 the written decision under subsection (k) of this Section. The  
20 procedures for a second parole review shall be governed by  
21 subsections (c) through (k) of this Section.

22 (n) A person denied parole under subsection (m) of this  
23 Section, who is not serving a sentence for ~~either~~ first degree  
24 murder, ~~or~~ aggravated criminal sexual assault, or predatory  
25 criminal sexual assault of a child, shall be eligible for a  
26 third and final parole review by the Prisoner Review Board 5

1 years after the written decision under subsection (l) of this  
2 Section. The procedures for the third and final parole review  
3 shall be governed by subsections (c) through (k) of this  
4 Section.

5 (o) Notwithstanding anything else to the contrary in this  
6 Section, nothing in this Section shall be construed to delay  
7 parole or mandatory supervised release consideration for  
8 petitioners who are or will be eligible for release earlier  
9 than this Section provides. Nothing in this Section shall be  
10 construed as a limit, substitution, or bar on a person's right  
11 to sentencing relief, or any other manner of relief, obtained  
12 by order of a court in proceedings other than as provided in  
13 this Section.

14 (Source: P.A. 100-1182, eff. 6-1-19; 101-288, eff. 1-1-20.)