



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB1821

Introduced 2/17/2021, 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.

LRB102 10449 RLC 15777 b

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
2 of 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
7 under 21 years of age at the time of the commission of first
8 degree murder who is sentenced on or after June 1, 2019 (the
9 effective date of Public Act 100-1182) shall be eligible for
10 parole review by the Prisoner Review Board after serving 20
11 years or more of his or her sentence or sentences, except for
12 those subject to a term of natural life imprisonment under
13 Section 5-8-1 of this Code or any person subject to sentencing
14 under subsection (c) of Section 5-4.5-105 of this Code, who
15 shall be eligible for parole review by the Prisoner Review
16 Board after serving 40 years or more of his or her sentence or
17 sentences.

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

1 notify the Department of Corrections within 10 business days.
2 If the Prisoner Review Board determines that the petition is
3 not appropriately filed, it shall notify the petitioner in
4 writing, including a basis for its determination.

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

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

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

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

26 (g) Not less than 12 months prior to the hearing, the

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

24 (h) The hearing conducted by the Prisoner Review Board
25 shall be governed by Sections 15 and 20, subsection (f) of
26 Section 5, subsections (a), (a-5), (b), (b-5), and (c) of

1 Section 10, and subsection (d) of Section 25 of the Open Parole
2 Hearings Act and Part 1610 of Title 20 of the Illinois
3 Administrative Code. The eligible person has a right to be
4 present at the Prisoner Review Board hearing, unless the
5 Prisoner Review Board determines the eligible person's
6 presence is unduly burdensome when conducting a hearing under
7 paragraph (6.6) of subsection (a) of Section 3-3-2 of this
8 Code. If a psychological evaluation is submitted for the
9 Prisoner Review Board's consideration, it shall be prepared by
10 a person who has expertise in adolescent brain development and
11 behavior, and shall take into consideration the diminished
12 culpability of youthful offenders, the hallmark features of
13 youth, and any subsequent growth and increased maturity of the
14 person. At the hearing, the eligible person shall have the
15 right to make a statement on his or her own behalf.

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

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

25 (1) there is a substantial risk that the eligible
26 person will not conform to reasonable conditions of parole

1 or aftercare release; or

2 (2) the eligible person's release at that time would
3 deprecate the seriousness of his or her offense or promote
4 disrespect for the law; or

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

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

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

1 aggregate of the discharged underlying sentence and the
2 mandatory supervised release period as sent forth in Section
3 5-4.5-20.

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

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

25 (n) A person denied parole under subsection (m) of this
26 Section, who is not serving a sentence for ~~either~~ first degree

1 murder, ~~or~~ aggravated criminal sexual assault, or predatory
2 criminal sexual assault of a child, shall be eligible for a
3 third and final parole review by the Prisoner Review Board 5
4 years after the written decision under subsection (l) of this
5 Section. The procedures for the third and final parole review
6 shall be governed by subsections (c) through (k) of this
7 Section.

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

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