



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2073

Introduced 2/9/2023, by Sen. Seth Lewis

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4.5-115

Amends the Unified Code of Corrections if and only if House Bill 1064 of the 102nd General Assembly becomes law. Provides that the amendatory Act applies retroactively. Provides that a petitioner is eligible for parole review regardless of whether the petitioner was sentenced on or after June 1, 2019. Provides that up to 3 (rather than 3) years prior to becoming eligible for parole review, the eligible person may file his or her petition for parole review with the Prisoner Review Board. Provides that within 30 days of receipt of this petition, the Prisoner Review Board shall determine whether the petition is appropriately filed, and if so, shall set a date for a parole review hearing one year from the date the petition is deemed appropriately filed or on the date of eligibility for parole review, whichever is later (rather than 3 years from receipt of the petition). Effective immediately.

LRB103 28530 RLC 54911 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. If and only if House Bill 1064 of the 102nd
5 General Assembly becomes law, then the Unified Code of
6 Corrections is amended by changing Section 5-4.5-115 as
7 follows:

8 (730 ILCS 5/5-4.5-115)

9 Sec. 5-4.5-115. Parole review of persons under the age of
10 21 at the time of the commission of an offense.

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

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

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

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

1 set a date for a parole review hearing one year from the date
2 the petition is deemed appropriately filed or on the date of
3 eligibility for parole review, whichever is later, 3 years
4 ~~from receipt of the petition~~ and notify the Department of
5 Corrections within 10 business days. If the Prisoner Review
6 Board determines that the petition is not appropriately filed,
7 it shall notify the petitioner in writing, including a basis
8 for its determination.

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

22 (e) One year prior to the ~~person being eligible for~~ parole
23 review hearing, counsel shall be appointed by the Prisoner
24 Review Board upon a finding of indigency. The eligible person
25 may waive appointed counsel or retain his or her own counsel at
26 his or her own expense.

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

1 person, and his or her counsel, with any further documents or
2 materials that come into its possession prior to the hearing
3 subject to the limitations contained in this subsection.

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

1 parole hearing.

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

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

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

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

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

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

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

17 (k) Unless denied parole under subsection (j) of this
18 Section and subject to the provisions of Section 3-3-9 of this
19 Code: (1) the eligible person serving a sentence for any
20 non-first degree murder offense or offenses, shall be released
21 on parole which shall operate to discharge any remaining term
22 of years sentence imposed upon him or her, notwithstanding any
23 required mandatory supervised release period the eligible
24 person is required to serve; and (2) the eligible person
25 serving a sentence for any first degree murder offense, shall
26 be released on mandatory supervised release for a period of 10

1 years subject to Section 3-3-8, which shall operate to
2 discharge any remaining term of years sentence imposed upon
3 him or her, however in no event shall the eligible person serve
4 a period of mandatory supervised release greater than the
5 aggregate of the discharged underlying sentence and the
6 mandatory supervised release period as sent forth in Section
7 5-4.5-20.

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

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

1 (n) A person denied parole under subsection (m) of this
2 Section, who is not serving a sentence for either first degree
3 murder or aggravated criminal sexual assault, shall be
4 eligible for a third and final parole review by the Prisoner
5 Review Board 5 years after the written decision under
6 subsection (l) of this Section. The procedures for the third
7 and final parole review shall be governed by subsections (c)
8 through (k) of this Section.

9 (o) Notwithstanding anything else to the contrary in this
10 Section, nothing in this Section shall be construed to delay
11 parole or mandatory supervised release consideration for
12 petitioners who are or will be eligible for release earlier
13 than this Section provides. Nothing in this Section shall be
14 construed as a limit, substitution, or bar on a person's right
15 to sentencing relief, or any other manner of relief, obtained
16 by order of a court in proceedings other than as provided in
17 this Section. This Section applies retroactively on the
18 effective date of this amendatory Act of the 103rd General
19 Assembly.

20 (Source: P.A. 100-1182, eff. 6-1-19; 101-288, eff. 1-1-20;
21 10200HB1064enr.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.