

By: Moody

H.B. No. 87

A BILL TO BE ENTITLED

AN ACT

relating to the release on parole of certain youthful offenders;
changing parole eligibility.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 508, Government Code, is amended by adding Section 508.1415 to read as follows:

Sec. 508.1415. ADDITIONAL PAROLE CONSIDERATIONS FOR YOUTHFUL OFFENDERS. (a) This section applies only to the consideration for release on parole of an inmate who was younger than 17 years of age at the time the offense for which the inmate is eligible for release on parole was committed.

(b) In determining whether to release an inmate described by Subsection (a) on parole, a parole panel shall assess the growth and maturity of the inmate, taking into consideration:

(1) the diminished culpability of juveniles, as compared to that of adults;

(2) the hallmark features of youth; and

(3) the greater capacity of juveniles for change, as compared to that of adults.

(c) The board shall adopt a policy establishing factors for a parole panel to consider when reviewing for release on parole an inmate to whom this section applies to ensure that the inmate is provided a meaningful opportunity to obtain release. The policy must:

1 (1) consider the age of the inmate at the time of the
2 commission of the offense as a mitigating factor in favor of
3 granting release on parole;

4 (2) permit persons having knowledge of the inmate
5 before the inmate committed the offense or having knowledge of the
6 inmate's growth and maturity after the offense was committed to
7 submit statements regarding the inmate for consideration by the
8 parole panel; and

9 (3) establish a mechanism for the outcome of a
10 comprehensive mental health evaluation conducted by an expert
11 qualified by education and clinical training in adolescent mental
12 health issues to be considered by the parole panel.

13 (d) This section does not:

14 (1) affect the rights granted under this chapter or
15 Article 56A.051, Code of Criminal Procedure, to a victim, guardian
16 of a victim, or close relative of a deceased victim; or

17 (2) create a legal cause of action.

18 SECTION 2. Section 508.145, Government Code, is amended by
19 amending Subsection (b) and adding Subsection (d-2) to read as
20 follows:

21 (b) An inmate serving a life sentence under Section
22 12.31(a)(1), Penal Code, for a capital felony is not eligible for
23 release on parole until the actual calendar time the inmate has
24 served, without consideration of good conduct time, equals 30 [~~40~~]
25 calendar years, except that an inmate serving a life sentence under
26 Section 12.31(a)(1), Penal Code, for a capital felony under Section
27 19.03(a)(1) or (7) of that code is not eligible for release on

1 parole until the actual calendar time the inmate has served,
2 without consideration of good conduct time, equals 40 calendar
3 years.

4 (d-2)(1) This subsection applies only to an inmate who:

5 (A) is serving a sentence for:

6 (i) an offense described by Article
7 42A.054(a), Code of Criminal Procedure;

8 (ii) an offense for which the judgment
9 contains an affirmative finding under Article 42A.054(c) or (d),
10 Code of Criminal Procedure; or

11 (iii) an offense under Section 20A.03,
12 71.02, or 71.023, Penal Code; and

13 (B) was younger than 17 years of age at the time
14 the offense was committed.

15 (2) Notwithstanding any other provision of this
16 section, an inmate described by Subdivision (1) is not eligible for
17 release on parole until the inmate's actual calendar time served,
18 without consideration of good conduct time, equals one-fourth of
19 the sentence or 30 calendar years, whichever is less, but in no
20 event is the inmate eligible for release on parole in less than two
21 calendar years.

22 SECTION 3. Article 37.07, Section 4, Code of Criminal
23 Procedure, is amended by adding Subsection (b-1) to read as
24 follows:

25 (b-1) Notwithstanding any other provision of this section,
26 in the penalty phase of the trial of a felony case in which the
27 punishment is to be assessed by the jury rather than the court, if

1 the offense is an offense described by Article 42A.054(a), Code of
2 Criminal Procedure, an offense for which an affirmative finding has
3 been made under Article 42A.054(c) or (d), Code of Criminal
4 Procedure, or an offense under Section 20A.03, 71.02, or 71.023,
5 Penal Code, and the defendant was younger than 17 years of age at
6 the time the offense was committed, the court shall charge the jury
7 in writing as follows:

8 "The length of time for which a defendant is imprisoned may be
9 reduced by the award of parole.

10 "Under the law applicable in this case, the defendant, if
11 sentenced to a term of imprisonment, may earn early parole
12 eligibility through the award of good conduct time. Prison
13 authorities may award good conduct time to a prisoner who exhibits
14 good behavior, diligence in carrying out prison work assignments,
15 and attempts at rehabilitation. If a prisoner engages in
16 misconduct, prison authorities may also take away all or part of any
17 good conduct time earned by the prisoner.

18 "Under the law applicable in this case, if the defendant is
19 sentenced to a term of imprisonment, the defendant will not become
20 eligible for parole until the actual time served plus any good
21 conduct time earned equals one-fourth of the sentence imposed or 30
22 years, whichever is less. Eligibility for parole does not guarantee
23 that parole will be granted.

24 "It cannot accurately be predicted how the parole law and
25 good conduct time might be applied to this defendant if sentenced to
26 a term of imprisonment, because the application of these laws will
27 depend on decisions made by prison and parole authorities.

1 "You may consider the existence of the parole law and good
2 conduct time. However, you are not to consider the extent to which
3 good conduct time may be awarded to or forfeited by this particular
4 defendant. You are not to consider the manner in which the parole
5 law may be applied to this particular defendant."

6 SECTION 4. (a) The change in law made to Chapter 508,
7 Government Code, by this Act applies to any inmate who is confined
8 in a facility operated by or under contract with the Texas
9 Department of Criminal Justice on or after the effective date of
10 this Act, regardless of whether the offense for which the inmate is
11 confined occurred before, on, or after the effective date of this
12 Act.

13 (b) Article 37.07, Section 4(b-1), Code of Criminal
14 Procedure, as added by this Act, applies to the penalty phase of the
15 trial of a felony case held on or after the effective date of this
16 Act, regardless of whether the offense being tried occurred before,
17 on, or after the effective date of this Act.

18 SECTION 5. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect on the 91st day after the last day of the
23 legislative session.