

By: Springer, et al.

S.B. No. 955

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. This Act may be cited as Senator Eddie Luccio, Jr. Act.

SECTION 2. Chapter 37, Code of Criminal Procedure, is amended to read as follows:

Sec. 37.07, Sec. 4. (a). In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense of which the jury has found the defendant guilty is an offense under Section 71.02, Penal Code, other than an offense punishable as a state jail felony under that section, an offense under Section 71.023, Penal Code, or an offense listed in Article 42A.054(a), or if the judgment contains an affirmative finding under Article 42A.054(c) or (d), unless the defendant has been convicted of an offense under Section 21.02, Penal Code, an offense under Section 22.021, Penal Code, that is punishable under Subsection (f) of that section, or a capital felony, the court shall charge the jury in writing as follows:

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

"Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, the defendant will not become

1 eligible for parole until the actual time served equals one-half of
2 the sentence imposed or 30 years, whichever is less. If the
3 defendant is sentenced to a term of less than four years, the
4 defendant must serve at least two years before the defendant is
5 eligible for parole. Eligibility for parole does not guarantee
6 that parole will be granted.

7 "Under the law applicable in this case, if the defendant is
8 sentenced to a term of imprisonment as a result of an offense that
9 occurred while the defendant was a child within the meaning
10 assigned under Title 3 of the Family Code, the defendant will not
11 become eligible for parole until the actual time served equals
12 one-fourth of the sentence imposed or 20 years, whichever is less,
13 but in no event is the inmate eligible for release on parole in less
14 than two calendar years unless the inmate would otherwise be
15 eligible for release on parole under other applicable law.
16 Eligibility for parole does not guarantee that parole will be
17 granted."

18 "It cannot accurately be predicted how the parole law might
19 be applied to this defendant if sentenced to a term of imprisonment,
20 because the application of that law will depend on decisions made by
21 parole authorities.

22 "You may consider the existence of the parole law. You are
23 not to consider the manner in which the parole law may be applied to
24 this particular defendant."

25 SECTION 3. Chapter 498, Government Code, is amended to read
26 as follows:

27 Sec 498.003. ACCRUAL OF GOOD CONDUCT TIME. (a) Good conduct

1 time applies only to eligibility for parole or mandatory
2 supervision as provided by Section 508.145, Section 508.1451, or
3 508.147 and does not otherwise affect an inmate's term. Good
4 conduct time is a privilege and not a right. Regardless of the
5 classification of an inmate, the department may grant good conduct
6 time to the inmate only if the department finds that the inmate is
7 actively engaged in an agricultural, vocational, or educational
8 endeavor, in an industrial program or other work program, or in a
9 treatment program, unless the department finds that the inmate is
10 not capable of participating in such a program or endeavor.

11 SECTION 4. Chapter 498, Government Code, is amended to read
12 as follows:

13 Sec 498.004. FORFEITURE AND RESTORATION OF GOOD CONDUCT TIME.

14 (c) The department shall establish a policy regarding the
15 suspension of good conduct time under Subsection (a). The policy
16 must provide that:

17 (1) the department will consider the severity of an
18 inmate's offense or violation in determining whether to suspend all
19 or part of the inmate's good conduct time instead of forfeiting the
20 inmate's good conduct time;

21 (2) during any period of suspension, good conduct time
22 placed in suspension may not be used:

23 (A) for purposes of granting privileges to an
24 inmate; or

25 (B) to compute an inmate's eligibility for parole
26 under Section 508.145 or Section 508.1451 or to determine an
27 inmate's date of release to mandatory supervision under Section

1 508.147;

2 (3) at the conclusion of any period of suspension, the
3 department may forfeit or reinstate the good conduct time placed in
4 suspension based on the inmate's conduct during the period of the
5 suspension; and

6 (4) in determining whether to forfeit or reinstate
7 good conduct time placed in suspension, the department must
8 consider whether any impact to public safety is likely to result
9 from the inmate's release on parole or to mandatory supervision if
10 the good conduct time is reinstated.

11 SECTION 5. Chapter 499, Government Code, is amended to read
12 as follows:

13 Sec 499.053. TRANSFERS FROM TEXAS JUVENILE JUSTICE
14 DEPARTMENT OR POST-ADJUDICATION SECURE CORRECTIONAL FACILITY. (d)
15 A person transferred from the Texas Juvenile Justice Department or
16 a post-adjudication secure correctional facility for the offense of
17 capital murder shall become eligible for parole as provided in
18 Section 508.1451 [~~508.145(d)~~] for an offense listed in Article
19 42A.054, Code of Criminal Procedure, or an offense for which a
20 deadly weapon finding has been made.

21 SECTION 6. Subchapter E, Chapter 508, Government Code, is
22 amended by adding Section 508.1451 to read as follows:

23 Section 508.1451. ELIGIBILITY AND CONSIDERATIONS FOR RELEASE
24 ON PAROLE; COMPUTATION OF PAROLE ELIGIBILITY DATE FOR CERTAIN
25 YOUTHFUL OFFENDERS.

26 (a) Eligibility and Computation of Release Date

27 (1) This section applies only to the eligibility for

1 release and computation of parole eligibility date for an inmate
2 who is serving a sentence at the Texas Department of Criminal
3 Justice for a felony offense committed when the person was under
4 eighteen, except for a capital felony under Section 19.03(a)(1) or
5 (7).

6 (2) An inmate eligible as provided by Subsection
7 (a)(1) who is serving a sentence under Section 12.31(a)(1), Penal
8 Code for a capital felony is not eligible for release on parole
9 until the actual calendar time the inmate has served, without
10 consideration of good conduct time, equals 20 [40] calendar years.

11 (3) Any other inmate eligible as provided by
12 Subsection (a)(1) is eligible for release in accordance with
13 Section 508.145 (f).

14 (b) Parole Considerations for Youthful Offenders

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

18 (A) the diminished culpability of youth, as
19 compared to that of adults;

20 (B) the hallmark features of youth; and

21 (C) the greater capacity of youth for change, as
22 compared to that of adults.

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

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

4 (B) 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.

9 (c) This section does not:

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

13 (2) create a legal cause of action.

14 SECTION 7. Chapter 508, Government Code, is amended to read
15 as follows:

16 Sec. 508.151. PRESUMPTIVE PAROLE DATE. (b) The
17 presumptive parole date may not be a date that is earlier than the
18 inmate's initial parole eligibility date computed under Section
19 508.145 or Section 508.1451.

20 SECTION 8. The change in law made by this Act applies to any
21 inmate who was under eighteen at the time of the offense who is
22 serving a sentence at the Texas Department of Criminal Justice on or
23 after the effective date of this Act, regardless of whether the
24 offense for which the inmate is confined occurred before, on, or
25 after the effective date of this Act.

26 SECTION 9. This Act takes effect September 1, 2023.