

By: Moody, Wu

H.B. No. 1274

Substitute the following for H.B. No. 1274:

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C.S.H.B. No. 1274

A BILL TO BE ENTITLED

AN ACT

relating to the release on parole of certain inmates convicted of an offense committed when younger than 18 years of age; changing parole eligibility.

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

SECTION 1. Section 508.046, Government Code, is amended to read as follows:

Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on parole an inmate who is serving a sentence for ~~[was convicted of]~~ an offense under Section 20A.03, 21.02, 21.11(a)(1), or 22.021, Penal Code, or who is serving a sentence under Section 12.42(c)(2), Penal Code ~~[required under Section 508.145(c) to serve 35 calendar years before becoming eligible for release on parole]~~, all members of the board must vote on the release on parole of the inmate, and at least two-thirds of the members must vote in favor of the release on parole. A member of the board may not vote on the release unless the member first receives a copy of a written report from the department on the probability that the inmate would commit an offense after being released on parole.

SECTION 2. 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:

1           (1) is eligible for release on parole; and  
2           (2) was younger than 18 years of age at the time the  
3 offense for which the inmate is eligible for release on parole was  
4 committed.

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

8           (1) the diminished culpability of juveniles as  
9 compared to that of adults; and

10           (2) the hallmark features of youth.

11           (c) In assessing an inmate's growth and maturity, a parole  
12 panel shall consider the following information about the inmate:

13           (1) age at the time of the offense;

14           (2) developmental stage at the time of the offense;

15           (3) family and community environment;

16           (4) ability to appreciate the risks and consequences  
17 of the conduct;

18           (5) intellectual capacity;

19           (6) if presented to the panel, the outcome of a  
20 comprehensive mental health evaluation that is conducted by an  
21 expert unaffiliated with the board, such as a psychiatrist,  
22 psychologist, or psychiatric mental health advanced practice  
23 registered nurse, who is qualified by education and clinical  
24 training in adolescent mental health issues and that may include:

25           (A) family interviews;

26           (B) family history;

27           (C) prenatal history;

1                   (D) developmental history;

2                   (E) medical history;

3                   (F) history of treatment for substance use;

4                   (G) social history; and

5                   (H) a psychological evaluation;

6                   (7) peer or familial pressure;

7                   (8) level of participation in the offense;

8                   (9) inability to effectively communicate with defense  
9 counsel or to participate meaningfully in the defense of the case;

10                   (10) capacity for or demonstrations of  
11 rehabilitation;

12                   (11) school records and special education  
13 evaluations;

14                   (12) trauma history;

15                   (13) faith and community involvement;

16                   (14) involvement in the child welfare system; and

17                   (15) any other mitigating factor or circumstance.

18                   (d) The board may employ a psychiatrist, psychologist, or  
19 psychiatric mental health advanced practice registered nurse who is  
20 qualified by education and clinical training in adolescent mental  
21 health issues to:

22                   (1) conduct an evaluation described by Subsection  
23 (c)(6), regardless of whether the evaluation is also conducted by  
24 an expert unaffiliated with the board under that subdivision; or

25                   (2) assist a parole panel in performing its other  
26 duties under this section.

27                   (e) The board shall adopt a policy establishing factors for

1 a parole panel to consider when reviewing for release on parole an  
2 inmate to whom this section applies to ensure that the inmate is  
3 provided a meaningful opportunity to obtain release. The policy  
4 must allow persons having knowledge of the inmate before the inmate  
5 committed the offense for which the inmate is eligible for parole or  
6 having knowledge of the inmate's growth and maturity after the  
7 offense was committed to submit statements regarding the inmate to  
8 the parole panel, including:

- 9           (1) family members and friends of the inmate;  
10           (2) school personnel;  
11           (3) faith leaders; and  
12           (4) representatives of community-based organizations.

13       (f) This section does not affect the rights granted under  
14 this chapter or Article 56.02, Code of Criminal Procedure, to a  
15 victim, guardian of a victim, or close relative of a deceased  
16 victim.

17       SECTION 3. Section 508.145, Government Code, is amended by  
18 adding Subsection (d-2) to read as follows:

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

20           (A) is serving a sentence for:

21                   (i) a capital or first degree felony  
22 described by Article 42A.054(a), Code of Criminal Procedure;

23                   (ii) an offense under Section 20A.03,  
24 21.02, or 71.023, Penal Code; or

25                   (iii) a first degree felony under Section  
26 71.02, Penal Code; and

27           (B) was younger than 18 years of age at the time

1 the offense was committed.

2           (2) Notwithstanding any other subsection of this  
3 section, an inmate described by Subdivision (1) is not eligible for  
4 release on parole until the inmate's actual calendar time served,  
5 without consideration of good conduct time, equals one-half of the  
6 sentence or 20 calendar years, whichever is less, but in no event is  
7 the inmate eligible for release on parole in less than two calendar  
8 years.

9           SECTION 4. Sections 499.053(d) and 508.145(b), Government  
10 Code, are repealed.

11           SECTION 5. The change in law made by this Act applies to any  
12 inmate who is confined in a facility operated by or under contract  
13 with the Texas Department of Criminal Justice on or after the  
14 effective date of this Act, regardless of whether the offense for  
15 which the inmate is confined occurred before, on, or after the  
16 effective date of this Act.

17           SECTION 6. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2017.