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

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

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

(d)  This section does not:

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

(2)  create a legal cause of action.

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

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

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

(A)  is serving a sentence for:

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

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

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

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

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

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

(b-1)  Notwithstanding any other provision of this section, 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 is an offense described by Article 42A.054(a), Code of Criminal Procedure, an offense for which an affirmative finding has been made under Article 42A.054(c) or (d), Code of Criminal Procedure, or an offense under Section 20A.03, 71.02, or 71.023, Penal Code, and the defendant was younger than 17 years of age at the time the offense was committed, 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, the defendant, if sentenced to a term of imprisonment, may earn early parole eligibility through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

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

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

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

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

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

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