
**Community Safety, Justice, & Reentry
Committee**

HB 1325

Brief Description: Allowing qualifying persons serving long sentences committed prior to reaching 25 years of age to seek review for possible release from incarceration.

Sponsors: Representatives Hackney, Fitzgibbon, Simmons, Walen, Lekanoff, Doglio, Pollet and Macri.

Brief Summary of Bill

- Raises the age for which a life sentence without parole is authorized from 18 years old to 25 years old.
- Requires courts to sentence individuals convicted of Aggravated first degree Murder where the offense was committed prior to the individual's twenty-fifth birthday, as opposed to the individual's eighteenth birthday, a maximum term of life imprisonment and a minimum term of total confinement of 25 years.
- Expands provisions allowing certain individuals to petition the Indeterminate Sentencing Review Board for early release to include individuals convicted of crimes committed prior to the individual's twenty-fifth birthday, instead of the individual's eighteenth birthday, after serving no less than 15 years of total confinement in certain circumstances.

Hearing Date: 1/15/24

Staff: Lena Langer (786-7192).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Life Sentences for Offenses Committed as a Juvenile.

In 2012, the United States Supreme Court held, in *Miller v. Alabama (Miller)*, that the Eighth Amendment ban on cruel and unusual punishment forbids a sentencing scheme that mandates life in prison without the possibility of parole for homicides committed as juveniles. After the *Miller* decision, the Washington Supreme Court found Article 1, section 14 of the Washington Constitution prohibited life without parole sentences for juveniles and required courts to exercise complete discretion to consider mitigating circumstances associated with the youthfulness of any juvenile defendant, even when faced with mandatory statutory language. The court also found that a mandatory life without parole sentence was unconstitutional when applied to individuals under 21 who were convicted of Aggravated Murder in the first degree if the court does not engage in an individualized inquiry to determine whether the mitigating qualities of youth justified a downward departure.

In 2013, legislation was enacted to comply with *Miller*. Aggravated first degree Murder occurs when a person commits first degree Murder and certain aggravating circumstances exist, such as the victim being a firefighter or law enforcement officer, or the Murder occurred after the perpetrator escaped from prison. Individuals convicted of the crime of Aggravated Murder in the first degree, if the individual committed the crime before age 16, must be sentenced to a 25-year minimum sentence. If the individual committed the crime at age 16 or 17, the court must sentence the individual to a maximum term of life imprisonment and a minimum term of total confinement of no less than 25 years. Life without parole is available within the discretion of the judge for youths who commit Aggravated first degree Murder at age 16 or 17. In setting a minimum term, the court must take into account mitigating factors as provided in *Miller*.

Petition for Early Release.

An individual convicted of one or more crimes committed prior to the individual's eighteenth birthday may petition the Indeterminate Sentence Review Board (ISRB) for early release after serving no less than 20 years of total confinement, provided the individual has not had any new convictions subsequent to his or her eighteenth birthday, has not had a major violation in the 12 months prior to the petition, and is not serving a sentence for Aggravated first degree Murder or a sex offense.

During the minimum term of total confinement, the individual is not eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, any other form of early release, or any other form of authorized leave of absence while not in the direct custody of a corrections officer. The Department of Corrections (DOC) must assess a youthful offender five years prior to release and provide programming to prepare the individual for release.

No later than 180 days prior to the expiration of the individual's minimum sentence, the DOC must conduct an examination of the individual to assist in predicting the dangerousness and likelihood that the individual will engage in future criminal behavior if released. The ISRB must order that the individual be released unless it is determined by a preponderance of the evidence that, despite conditions, the individual will commit new criminal law violations if released.

During the review, the ISRB must provide the opportunity for victims and survivors of victims to present statements. If the ISRB denies release, a new minimum term, not to exceed five years, must be set before another review may take place.

If an individual is released after serving the minimum term of confinement, the individual must be subject to community custody under the supervision of the DOC and the authority of the ISRB for a period of time as determined by the ISRB.

Summary of Bill:

A life sentence without parole is authorized for individuals who are over the age of 25. A term of 25 years to life is authorized for individuals under the age of 25.

An individual convicted of Aggravated first degree Murder where the crime was committed prior to the individual's twenty-fifth birthday, must be sentenced to a minimum term of total confinement of 25 years.

An individual convicted of one or more crimes committed prior to the individual's twenty-fifth birthday may petition the Indeterminate Sentence Review Board (ISRB) for early release after serving no less than 15 years of total confinement, provided the individual has not had any new convictions subsequent to the individual's twenty-fifth birthday, has not had a major violation in the 12 months prior to the petition, and is not serving a sentence for Aggravated first degree Murder or a sex offense.

This bill applies retroactively. Any individual sentenced for Aggravated first degree Murder, prior to the bill's effective date, to a term of life without the possibility of parole for an offense committed on or after the individual's sixteenth birthday, but prior to the individual's twenty-fifth birthday, must return to the sentencing court for resentencing. The court must provide an opportunity for victims and survivors of victims to present a statement. Such resentencing does not reopen the defendant's conviction to challenges that would otherwise be barred by statute or other procedural barriers.

Appropriation: None.

Fiscal Note: Requested on January 8, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.