
Community Safety Committee

HB 1317

Brief Description: Concerning persons serving long sentences for offenses committed prior to reaching 21 years of age.

Sponsors: Representatives Hackney, Goodman, Simmons, Ormsby, Springer, Pollet and Doglio.

Brief Summary of Bill

- Permits certain persons convicted of one or more crimes committed under age 21 to petition the Indeterminate Sentence Review Board for early release after serving a specified portion of the sentence in total confinement, depending on the underlying conviction.
- Requires the sentencing court to impose a maximum term of life imprisonment and a minimum term of total confinement of no less than 25 years for Aggravated Murder in the first degree where the person committed the offense at age 18 to 20 if the court determines that certain mitigating factors of youthfulness apply.

Hearing Date: 1/20/25

Staff: Lena Langer (786-7192).

Background:

Life Sentences for Offenses Committed as a Juvenile.

In 2012 the United States Supreme Court (Supreme Court) held in *Miller v. Alabama* 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 that Article 1, section 14 of the

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.

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. In 2021 the Washington Supreme Court also held in *In re Monschke* that a person who commits Aggravated Murder in the first degree at age 18 to 20 is entitled to a consideration of the *Miller* mitigating factors at sentencing.

Aggravated Murder in the First Degree.

A person is guilty of Aggravated Murder in the first degree if the person commits Murder in the first degree and one or more of 14 statutory aggravating circumstances are present. Aggravated Murder in the first degree is the most serious criminal offense under state law. Adults and juveniles convicted of the offense are subject to different sentencing requirements.

Age 15 and Younger.

A person who commits Aggravated Murder in the first degree at age 15 or younger must be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of 25 years.

Age 16 to 17.

A person who commits Aggravated Murder in the first degree at age 16 or 17 must be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of no less than 25 years. In setting a minimum term, the court must take into account certain mitigating factors established by the Supreme Court in *Miller*. The *Miller* mitigating factors include the: (1) person's age; (2) person's childhood and life experience; (3) degree of responsibility the person was capable of exercising; and (4) person's chances of becoming rehabilitated.

Age 18 to 20.

Per statute, a person who commits Aggravated Murder in the first degree at age 18 or older must be sentenced to life imprisonment without the possibility of parole. However, under *Monschke*, a person who commits Aggravated Murder in the first degree at age 18 to 20 is entitled to a consideration of the *Miller* mitigating factors at sentencing, which may allow the court to impose a sentence other than life imprisonment without parole.

Age 21 and Older.

A person who commits Aggravated Murder in the first degree at age 21 or older must be sentenced to life imprisonment without parole.

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 incarcerated person five years prior to release and provide programming to prepare the individual for release.

Indeterminate Sentence Review Board.

After an eligible person has completed the minimum term of the person's sentence for Aggravated Murder in the first degree, the Indeterminate Sentence Review Board (ISRB) must review the person's case for the possibility of release. The ISRB must order the person's release unless it is determined by a preponderance of evidence that, despite conditions, it is more likely than not that the person will commit new crimes if released. If the ISRB does not order release, the ISRB must set a new minimum term not to exceed an additional five years. If the person is released, the person is subject to community custody under the supervision of the DOC and the authority of the ISRB for a specified period of time.

Review of Sentences for Other Offenses Committed as Juveniles.

A person convicted of one or more crimes committed under age 18 may petition the ISRB for early release after serving no less than 20 years of total confinement, provided the person has not had any new convictions after turning 18, has not had a major violation in the 12 months prior to the petition, and is not serving a sentence for Aggravated Murder in the first degree or a sex offense.

No later than 180 days from receipt of the petition for early release, the DOC must conduct an examination of the person 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 person be released unless it is determined by a preponderance of the evidence that, despite conditions, the person 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:

Aggravated Murder in the First Degree.

Statutory sentencing requirements for Aggravated Murder in the first degree are modified to provide that when a person commits such offense at age 18 to 20, the court must impose a maximum term of life imprisonment and a minimum term of total confinement of no less than 25 years if the court determines that the *Miller* mitigating factors apply.

Review of Sentences for Offenses Committed as Juveniles.

A person convicted of one or more crimes committed under age 21, rather than 18, may petition the ISRB for early release after serving no less than 15, rather than 20, years of total confinement, provided the person has not had any new convictions after turning 21, has not had a major violation in the 12 months prior to the petition, and is not serving a sentence for Aggravated Murder in the first degree, Murder in the first degree, or a sex offense.

A person convicted of Murder in the first degree committed under age 21 may petition the ISRB for early release after serving no less than 20 years of total confinement, provided the person has not had any new convictions after turning 21, has not had a major violation in the 12 months prior to the petition, and is not serving a sentence for a sex offense.

A person convicted of Aggravated Murder in the first degree committed under age 21 may petition the ISRB for early release after serving no less than 25 years of total confinement, provided the person has not had any new convictions after turning 21, has not had a major violation in the 12 months prior to the petition, and is not serving a sentence for a sex offense.

A currently incarcerated person may petition the ISRB for early release after the specified number of years of total confinement, dependent on the offense or offenses, regardless of the date of the offense or conviction.

Appropriation: None.

Fiscal Note: Requested on January 15, 2025.

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