



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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Rep. Rezabek

BILL SUMMARY

Transfers from juvenile to criminal court

- Eliminates mandatory transfers (bindovers) of a child's case from juvenile court to criminal court for criminal prosecution.
- Eliminates reverse transfers (bindovers) of a mandatory transfer case back to juvenile court for determination of a disposition.
- Modifies the factors a juvenile court must consider in determining whether to make a discretionary transfer (bindover) of a child's case from the court to criminal court for criminal prosecution and grants a child the right to appeal a transfer decision.

Delinquent child confinement credit

- Clarifies the meaning of "confinement" for determining the number of days a child has been confined pending adjudication, disposition, or execution of a court order.
- Provides the juvenile court continuing jurisdiction to consider disputes over a juvenile's confinement credit.
- Specifies that an inaccurate determination of confinement credit is not grounds for setting aside or declaring void a juvenile offender's adjudication or disposition.

Juvenile court costs and fines

- Allows a juvenile court to require a parent or parents of a delinquent child, or both the child and parent or parents to pay court costs or other financial sanctions.

- Eliminates the possibility that a court would order payment of the costs of confinement in a DYS institution.
- Requires a court to hold a hearing at disposition to determine a delinquent child's ability to pay, or the parents' ability to pay, any fines or costs imposed.
- Provides that the amount of fines or costs imposed may not exceed the total amount that the child, the parent or parents, or both the child and parents are able to pay.
- Permits the clerk of court, or other persons authorized to collect financial sanctions, to enter into contracts only with public agencies for the collection of amounts due.
- Specifies that the maximum time permitted for payment cannot exceed five years or extend beyond the child's 21st birthday, whichever occurs first.

Restitution

- Requires a juvenile court that orders restitution to consider alternative restorative justice or means to restitution other than cash reimbursement to the victim.
- Specifies that a court order for restitution expires upon satisfaction of the order, completion of the entire disposition ordered by the court, or the 21st birthday of the delinquent child or juvenile traffic offender, whichever is earliest.
- Requires the court to consider the child's ability to pay in addition to any other relevant factors in determining the number and amount of restitution payments.
- Allows an order for restitution by cash reimbursement to be reduced to a civil judgment in favor of the victim that may be enforced by civil collection methods.

Parole eligibility

- Provides special parole eligibility dates for persons with an indefinite sentence imposed for an offense, other than aggravated murder or a homicide offense involving two or more victims, committed when the person was under age 18.
- Requires the Parole Board to consider specified mitigating factors for persons who are eligible for parole under the special eligibility dates.
- Requires notice to be provided to the Ohio Public Defender and prosecutor before the parole consideration hearing for a prisoner under the special eligibility dates.

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CONTENT AND OPERATION

Transfer from juvenile to criminal court

Currently, when a child (a person under age 18) commits any violation of law that would be a criminal offense if committed by an adult or commits a traffic violation, except as described below, the charges against the child are considered in juvenile court. If the child is found in juvenile court to have committed the violation, the person is adjudicated a delinquent child or a juvenile traffic offender. In certain circumstances, though, the child's case must be transferred, and in other cases it may be transferred, to criminal court for criminal prosecution.

Mandatory transfer of child's case

The bill repeals all existing provisions that require the mandatory transfer, commonly referred to as the "mandatory bindover," of a child's case from juvenile court to criminal court for criminal prosecution¹ and all provisions that relate to, or refer to,

¹ Repeal of R.C. 2152.10(A) and 2152.12(A).



such a mandatory transfer, except that the current law would continue to apply with respect to any alleged violation of law committed before the bill's effective date.²

Currently, the mandatory transfer provisions require a juvenile court to transfer a child's case to a criminal court for criminal prosecution if any of the following applies:³

(1) The child is charged with a "category one offense" (aggravated murder, murder, attempted aggravated murder, or attempted murder) and either: (a) the child was age 16 or 17 at the time of the act charged and there is probable cause to believe that the child committed the act charged, or (b) the child was age 14 or 15 at the time of the act charged, previously was adjudicated a delinquent child for committing a category one or "category two offense" (voluntary manslaughter, kidnapping, rape, aggravated arson, aggravated robbery, aggravated burglary, the former offense of felonious sexual penetration, or a first degree felony offense of involuntary manslaughter), and was committed to the Department of Youth Services (DYS) based on that adjudication and there is probable cause to believe that the child committed the act charged.

(2) The child is charged with a category two offense, the child was age 16 or 17 at the time of the act charged, and either: (a) the child previously was adjudicated a delinquent child for committing a category one or category two offense and was committed to DHS based on that adjudication and there is probable cause to believe that the child committed the act charged, or (b) the child is alleged to have had a firearm on or about the child's person or under the child's control while committing the act charged and to have displayed, brandished, indicated possession of, or used the firearm to facilitate the act charged and there is probable cause to believe that the child committed the act charged.

(3) The child is eligible for a discretionary transfer (i.e., the child is age 14 or older and is charged with a felony) and previously was convicted of a felony in a case that was transferred to a criminal court, or the child is domiciled in another state and is alleged to be a delinquent child for committing a felony, and, if the act charged had been committed in that other state, the child would be subject to criminal prosecution as an adult under the law of that other state without the need for a transfer of jurisdiction from a juvenile, family, or similar noncriminal court to a criminal court.

² R.C. 2152.011, 2151.23(I), R.C. 2152.02(F), (P), (R), and redesignated (V) and(X), repeal of R.C. 2152.12(F), R.C.2152.12 redesignated (D), (F), (G), and (H), and R.C. 2152.26(G)(2).

³ Repealed R.C. 2152.10(A) and 2152.12(A).



Discretionary transfer of child's case

The bill retains the existing provisions that authorize the discretionary transfer, commonly referred to as the "discretionary bindover," of a child's case from juvenile court to criminal court for criminal prosecution but modifies the factors a juvenile court must consider in determining whether to make such a transfer and grants a child the right to appeal a transfer decision.⁴

In general; right to appeal transfer decision

Under existing law, substantively unchanged by the bill, if a child who is charged in juvenile court with a felony is age 14 or older, the child is eligible for discretionary transfer to criminal court for criminal prosecution, with the juvenile court required to follow specified procedures in deciding whether to transfer the case.⁵ If a complaint is filed in juvenile court alleging that a child is a delinquent child for committing a felony, the juvenile court at a hearing may transfer the case if the court finds that the child was age 14 or older at the time of the act charged, there is probable cause to believe that the child committed the act charged, and the child is not amenable to care or rehabilitation within the juvenile system and the safety of the community may require that the child be subject to adult sanctions (see below).⁶ Before considering a transfer, the court must order an investigation into the child's social history, education, family situation, and any other factor bearing on whether the child is amenable to juvenile rehabilitation, including a mental examination of the child by a public or private agency or a person qualified to make the examination. The child may waive the examination, and a child's refusal to submit to a mental examination constitutes a waiver.⁷

Under the bill, a child who has been found not amenable to care or rehabilitation within the juvenile system under the provisions described above has a right to appeal the transfer. Upon issuing the order for transfer, the juvenile court immediately must stay the transfer for a period of 14 days, unless waived by the child.⁸ An appeal under

⁴ R.C. 2152.12.

⁵ R.C. 2152.10(B), redesignated as R.C. 2152.10.

⁶ R.C. 2152.12(B), redesignated as (A).

⁷ R.C. 2152.12(C), redesignated as (B).

⁸ R.C. 2152.12(E) and 2505.02(B)(8).



this provision is governed by R.C. Chapter 2505.,⁹ which in turn subjects the appeal to the Rules of Appellate Procedure and the Rules of Practice of the Supreme Court.¹⁰

Factors to be considered in discretionary transfer decision

Operation of the bill

Existing law specifies factors, changed by the bill, that a court must consider in making its amenability/community safety decision and its final transfer decision at a discretionary transfer hearing. Some of the factors are to be considered in favor of making a transfer and some are to be considered against making a transfer. Under the bill, in making its decision on that issue, the court must consider the following factors that are relevant, and any other relevant factors:¹¹

(1) The child's risk level as determined by an evidence-based risk assessment tool administered by a trained court professional, which may be a risk assessment tool developed by the court, a tool endorsed by DYS, or any other tool the court determines to be appropriate;

(2) The level of harm to the victim in the child's alleged act, including the level of physical, psychological, or serious economic harm the victim suffered or whether the child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, and whether the physical or psychological harm the victim suffered was exacerbated because of the victim's physical or psychological vulnerability or age;

(3) The victim's role, including whether the child's relationship with the victim facilitated the act charged, and whether the victim induced or facilitated the act charged or the child acted under provocation in allegedly committing the act charged;

(4) The circumstances of the offense, including whether the child was not the principle actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person, whether the child allegedly committed the act charged for hire or as part of a gang, and whether the child had a firearm on or about the child's person or under the child's control at the time of the act charged, the act charged is not the offense of carrying a concealed weapon, and the child allegedly used, displayed, brandished, or indicated possession of a firearm;

⁹ R.C. 2505.03, not in the bill.

¹⁰ R.C. 2505.03 to 2505.05 and other provisions of R.C. Chapter 2505., not in the bill.

¹¹ R.C. 2152.12(C).



(5) The child's past experience in the juvenile court, including the presence or lack of any prior or current cases and rehabilitative efforts by the court and the availability of a reasonable and appropriate juvenile sanction or program that has not yet been utilized;

(6) The child's individual developmental characteristics, including whether the child is emotionally, physically, or psychologically mature enough for the transfer, and whether the child has a behavioral health issue, including a mental illness, substance abuse disorder, or developmental disability;

(7) The child's background, including family and environment, and trauma history;

(8) Whether there is sufficient time to rehabilitate the child within the juvenile system.

The bill requires DYS to develop and provide to each juvenile court a list of standardized, evidence-based risk assessment tools that the department endorses for use in determining a child's risk level. A court may use, but is not required to use, a tool from the endorsed list.¹²

Currently

Currently, in considering whether to transfer a child under a discretionary transfer, a juvenile court must consider in favor of a transfer, as relevant: factors similar to some of those listed in paragraphs (2), (3), (4), (6), and (8), above; that the child at the time of the act charged was awaiting adjudication or disposition as a delinquent child, was under a community control sanction, or was on parole for a prior delinquent child adjudication or conviction; that the results of any previous juvenile sanctions and programs indicate that rehabilitation of the child will not occur in the juvenile system; and any other relevant factors. A juvenile court must consider against a transfer, as relevant, factors similar to some of those listed in paragraphs (2), (3), (4), (5), (6), and (8), above.¹³

Reverse transfer in a mandatory transfer case

Because the bill repeals the existing provisions that require the mandatory transfer of a child's case to criminal court for criminal prosecution, as described above, it also repeals the existing provisions that provide for the reverse transfer of a mandatory transfer case, commonly referred to as the "reverse bindover," back to

¹² R.C. 2152.12(I).

¹³ Repealed R.C. 2152.12(D) and (E).



juvenile court for determination of a disposition.¹⁴ The bill also generally repeals existing provisions that relate, or refer, to such a reverse transfer,¹⁵ but retains references to such a reverse transfer under current law with respect to a restriction against the release of information regarding a conviction of a child who was subject to such a transfer,¹⁶ to the jurisdiction of juvenile courts over a child who was subject to such a transfer,¹⁷ to the invocation of the adult portion of a serious youthful offender (SYO) dispositional sentence,¹⁸ and to the public record status of information related to the confinement of a child in specified circumstances under the reverse transfer mechanism.¹⁹

The bill specifies that current law would continue to apply with respect to any alleged violation of law committed before the bill's effective date.²⁰ Currently, the reverse transfer provisions apply when a child's case is transferred under either of two mandatory transfer provisions and the child is convicted of an offense in the case. The first is when the child is charged with aggravated murder, murder, attempted aggravated murder, or attempted murder, the child was 16 or 17 at the time of the act charged, and there is probable cause to believe the child committed that act. The second is when the child is charged with a category two offense, the child was 16 or 17 at the time of the act charged, there is probable cause to believe the child committed that act, and the child is alleged to have had a firearm while committing the act charged and to have displayed, brandished, indicated possession of, or used the firearm in committing the act charged.

In either case, the court in which the child is convicted of the crime after the transfer (the court of conviction) must determine whether, had a complaint been filed in juvenile court alleging that the child was a delinquent child for committing an act that would be the offense of conviction if committed by an adult, the existing mandatory transfer provisions would have required, or the discretionary transfer provisions would have allowed, transfer of the case for criminal prosecution. Depending on what the court determines, it must do one of three things: transfer the case back to juvenile court for that court's imposition of a traditional juvenile sentence on the offender; impose sentence on the child under the Criminal Sentencing Law with the sentence being

¹⁴ Repeal of R.C. 2152.121.

¹⁵ R.C. 2151.23(H), 2152.021, 2152.12(A)(3), and 2152.13(A).

¹⁶ R.C. 109.57(E)(2).

¹⁷ R.C. 2152.02(C)(5), (R), and redesignated (V).

¹⁸ R.C. 2152.14.

¹⁹ R.C. 2152.26(G)(2).

²⁰ R.C. 2152.011.

invoked; or impose sentence on the child under the Criminal Sentencing Law, transfer the case back to the juvenile court, and stay the sentence pending juvenile court action. If the court uses the third option, the juvenile court follows specified procedures and, depending on its findings, either imposes an SYO dispositional sentence on the child or transfers jurisdiction of the case back to the court of conviction with the sentence imposed by that court being invoked.²¹

Serious youthful offender dispositional sentence

The bill does not change the existing provisions that specify when an SYO dispositional sentence is required,²² does not change the provisions that govern the imposition of discretionary SYO dispositional sentences,²³ and does not substantively change the procedures that govern the invocation of the adult portion of an SYO dispositional sentence.²⁴

Delinquent child confinement credit

Calculation of days in confinement

Current law, retained by the bill, provides that, when a juvenile court commits a delinquent child to DYS pursuant to the Delinquent Child Law, the court must state in the commitment order the total number of days that the child has been confined in connection with the delinquent child complaint upon which the commitment order is based. DYS must then reduce the minimum period of institutionalization that was ordered by both the total number of days that the child has been confined as stated by the court in the commitment order and the total number of additional days that the child has been confined subsequent to the order of commitment but prior to the transfer of physical custody of the child to DYS.

Current law states that the court cannot include days that the child has been under electronic monitoring or house arrest or days that the child has been confined in a halfway house. The bill instead provides that the court must only include days that the child has been "confined," which is defined as placement in any locked and secure facility, either adult or juvenile, in a locked and secure section of any facility, or in any community corrections facility. A "secure facility" is any facility that is designed and operated to ensure that all of its entrances and exits are under the exclusive control of

²¹ R.C. 2152.121.

²² R.C. 2152.11(B)(1), (C)(1), and (D)(1), not in the bill.

²³ R.C. 2152.11(B)(2), (C)(2), (D)(2), (E)(1) and (2), (F)(1) and (2), and (G)(1), not in the bill, and 2152.13(D)(2).

²⁴ R.C. 2152.14.



its staff and to ensure that no child may leave without permission or supervision. "Community corrections facility" means a multicounty rehabilitation center for felony delinquents who have been committed to DYS and diverted from care and custody in an institution.²⁵

Errors in calculating confinement credit

Under the bill, the juvenile court retains continuing jurisdiction to correct any error made in determining a delinquent child's confinement credit. The delinquent child may, at any time after disposition, file a motion in the juvenile court to correct any error made in the determination and the court in its discretion may grant or deny that motion. If the court changes the number of days in its determination or redetermination, the court must cause the entry granting that change to be delivered to DYS without delay. An inaccurate determination of confinement credit is not grounds for setting aside the delinquent child's adjudication or disposition and does not otherwise render the disposition void or voidable.²⁶

Juvenile court costs and restitution

Costs

Under current law, unchanged by the bill, if a child is adjudicated a delinquent child or juvenile traffic offender, the juvenile court may order a variety of financial sanctions specified in statute, unless the child's delinquent act or juvenile traffic offense would be a minor misdemeanor if committed by an adult or, in the case of a juvenile traffic offense, could be disposed of by a juvenile traffic violations bureau if one has been established by the court. The bill allows a juvenile court to order the parent or parents of a delinquent child or juvenile traffic offender, or both the child and parent or parents, rather than only the child, to pay costs, including court costs, the costs of house arrest with electronic monitoring, or witness fees.²⁷ If the court orders the child to pay restitution, the court may include as costs a surcharge, in an amount not exceeding 5% of the amount of restitution to the entity responsible for collecting and processing the restitution payments.²⁸ The court may also order a parent or parents of the child, or both the child and parent or parents, to reimburse costs incurred for services or sanctions provided or imposed, including:²⁹

²⁵ R.C. 2152.18(B) and (F).

²⁶ R.C. 2152.18(B).

²⁷ R.C. 2152.20(A)(2) and 2746.05, not in the bill.

²⁸ R.C. 2152.203(D).

²⁹ R.C. 2152.20(A)(4).



- All or part of the costs of implementing any community control imposed as a disposition, including a supervision fee.
- All or part of the costs of confinement in a residential facility, including a per diem fee for room and board, the costs of medical and dental treatment provided, and the costs of repairing property the delinquent child damaged while confined.

Current law, repealed by the bill, also allows the court to order payment of the costs of confinement in a DYS facility.³⁰

The bill makes it mandatory for a juvenile court to hold a hearing at disposition to determine whether a child, or a parent or parents of the child, or both the child and a parent or parents of the child, are able to pay a financial sanction. The amount of any sanction ordered must not exceed the total amount that the child, the parent or parents, or both the child and a parent or parents are able to pay. A person required to pay the financial sanction is considered an obligor liable for payment.³¹

Under the bill, the clerk of court, or other persons authorized to collect financial sanctions imposed by the court, may enter into contracts only with public agencies for the collection of amounts due. Current law also allows for contracts with private vendors.³²

Under the bill, the maximum time permitted for payment of financial sanctions cannot exceed five years or extend beyond the child's 21st birthday, whichever occurs first. Under current law, the maximum time permitted is five years. If the obligor elects a payment plan rather than a lump sum payment of a financial sanction, the obligor may be charged a reasonable fee to defray administrative costs.³³

Restitution

One of the financial sanctions that a juvenile court may order is restitution. The bill relocates existing provisions relating to restitution from R.C. 2152.20 to a new Revised Code section (R.C. 2152.203) and adds cross-references to the new section in statutes that previously referenced only R.C. 2152.20.³⁴ Restitution is made by the delinquent child or juvenile traffic offender to the victim, or to a survivor if the victim is

³⁰ R.C. 2152.20(A)(4).

³¹ R.C. 2152.20(C).

³² R.C. 2152.20(E)(1).

³³ R.C. 2152.20(E)(2) and (3).

³⁴ R.C. 109.42(A)(13) and 2152.21(A)(4).

deceased, in an amount based on the victim's economic loss.³⁵ If the court orders restitution, the restitution may be in the form of a cash reimbursement, the performance of repair work to restore any damaged property to its original condition, the performance of a reasonable amount of labor for the victim or survivor of the victim, the performance of community service work, any other form of restitution devised by the court, or any combination of those forms of restitution. The bill requires the court to also consider alternative restorative justice or alternative means to restitution, which may include a requirement to return personal property.³⁶

In establishing a payment plan, the court must consider the child's present and future ability to pay in addition to any other factors the court finds relevant in determining the number and amount of restitution payments.³⁷ The bill specifies that a court order for restitution expires upon satisfaction of the order, either through payment, community service, or at the advice of the victim, completion of the entire disposition ordered by the court, or the 21st birthday of the delinquent child or juvenile traffic offender, whichever occurs first.³⁸

Under the bill, a court order for restitution may be reduced to a civil judgment in favor of the victim on or after the termination of the juvenile court's jurisdiction following the delinquent child's or juvenile traffic offender's 21st birthday or, if the order has not been satisfied after exhaustion of all options for restitution described above, by order of the court, whichever occurs first. If the order is reduced to a civil judgment, the person required to pay restitution is considered the judgment debtor, and the victim may do any of the following:³⁹

- Obtain from the clerk of the court a certificate of judgment in the same manner and form as a certificate of judgment issued in a civil action.
- Obtain execution⁴⁰ of the judgment or order through any available procedure, including:
 - An execution against the debtor's property under R.C. Chapter 2329.
 - An execution against the debtor's person under R.C. Chapter 2331.

³⁵ R.C. 2152.20(A)(3) and 2152.203(A).

³⁶ R.C. 2152.203(B).

³⁷ R.C. 2152.203(F).

³⁸ R.C. 2152.203(E).

³⁹ R.C. 2152.203(G).

⁴⁰ An execution is a process of a court directed to the sheriff of a county.

- A proceeding in aid of execution under R.C. Chapter 2333., including: a proceeding for the examination of the debtor's property, income, and other means of satisfying the judgment; a proceeding for the attachment of the person of the debtor; or a creditor's suit if the judgment debtor does not have sufficient personal or real property to satisfy the judgment.
- The attachment (seizure) of the debtor's property.
- The garnishment of the debtor's property.⁴¹
- Obtain an order for the assignment of the debtor's wages⁴² for the support of a spouse or children.

Parole eligibility

Background

The Pardon, Parole, and Probation Law specifies when an offender who is imprisoned in a state correctional institution under a life sentence or indefinite sentence becomes eligible for parole and provides the Adult Parole Authority (APA) with the authority, subject to the restrictions and procedures set forth in the Law, to grant an eligible prisoner parole.⁴³ Currently, a prisoner's eligibility for parole is not affected by the prisoner's age at the time of the prisoner's offense and the APA is not required to consider the prisoner's age at the time of the offense in determining the prisoner's fitness for parole.

Applicability

The bill enacts a section in the Pardon, Parole, and Probation Law that applies to a prisoner who is serving a prison term for an offense or offenses, other than a "disqualifying homicide offense," that occurred when the prisoner was less than 18 years of age (hereafter, "prisoner"). Regardless of whether the prisoner's stated prison term includes any mandatory time, the section applies automatically and cannot be limited by the sentencing court. The section does not apply to any prisoner serving a prison sentence for a "disqualifying homicide offense," which is defined as aggravated

⁴¹ The money, property, or credits, other than the personal earnings, of the judgment debtor. *See* R.C. 2716.11, not in the bill.

⁴² The transfer of the judgment debtor's right to collect wages to the victim.

⁴³ R.C. Chapter 2967.

murder or any other offense or combination of offenses that involved the purposeful killing of two or more persons.⁴⁴

Special eligibility for parole

The bill sets forth when the prisoner is eligible for parole. This provision of the bill applies notwithstanding any conflicting provision of the Revised Code and applies to determine the parole eligibility of all prisoners who committed an offense other than a disqualifying homicide offense prior to, on, or after the bill's effective date, regardless of when the prisoner was sentenced for the offense.⁴⁵

Under the bill, the prisoner is eligible for parole as follows:⁴⁶

(1) If the prisoner's prison term totals at least 15 years and permits parole not later than after 20 years, the prisoner is eligible for parole after serving 15 years in prison.

(2) If the prisoner is serving a sentence that permits parole only after more than 20 years but not later than after 30 years, the prisoner is eligible for parole five years prior to the parole eligibility date stated in the sentence.

(3) If the prisoner's stated prison term totals more than 30 years but does not include a sentence of life without parole, the prisoner is eligible for parole after serving 30 years in prison.

(4) If the prisoner is serving a sentence of life without parole, the prisoner is eligible for parole after serving 35 years in prison.

(5) If the prisoner is serving a sentence described in (1), (2), or (3), above (the bill does not include a reference to a sentence described in (4)), and, upon the bill's effective date, the applicable parole eligibility date specified by (1), (2), or (3) has been reached, the prisoner is eligible for parole immediately upon the bill's effective date.

Consideration of an eligible prisoner's release; mitigating factors

Under the bill, once a prisoner becomes eligible for parole, the Parole Board is required, within a reasonable time after the prisoner becomes eligible, to conduct a hearing to consider the prisoner's release onto parole supervision. The Parole Board is

⁴⁴ R.C. 2967.132(A).

⁴⁵ R.C. 2967.132(B) and (G).

⁴⁶ R.C. 2967.132(B)(1) to (5).



required to conduct the hearing in accordance with the Victim's Rights Law,⁴⁷ the Pardon, Parole, and Probation Law,⁴⁸ and the APA Law,⁴⁹ and in accordance with the Board's policies and procedures. The Parole Board's policies and procedures must permit the prisoner's privately retained counsel or the Ohio Public Defender to appear at the prisoner's hearing to make a statement in support of the prisoner's release.⁵⁰

The bill requires the Parole Board to ensure that the Board's review process provides the prisoner a meaningful opportunity to obtain release. In addition to any other factors the Parole Board is required or authorized to consider by rule or statute, the Board is required to consider the following factors as mitigation:⁵¹

- (1) The age of the offender at the time of the offense;
- (2) The diminished culpability of youth;
- (3) Common characteristics of youth, including immaturity and failure to appreciate risks and consequences;
- (4) The family and home environment of the offender at the time of the offense;
- (5) Any subsequent growth or increase in the offender's maturity during imprisonment.

If the Parole Board grants the prisoner parole, the Board must impose appropriate terms and conditions of release upon the prisoner as provided under the Pardon, Parole, and Probation Law.⁵²

If the Parole Board denies the prisoner release, the Board is required to conduct a subsequent release review not later than ten years after denying release.⁵³

Notification of prisoner's eligibility for review

In addition to any other notice required by rule or statute, the bill requires the Parole Board to notify the Ohio Public Defender and the appropriate prosecuting

⁴⁷ R.C. Chapter 2930.

⁴⁸ R.C. Chapter 2967.

⁴⁹ R.C. Chapter 5149.

⁵⁰ R.C. 2967.132(C).

⁵¹ R.C. 2967.132(C)(1) to (5).

⁵² R.C. 2967.132(D), and R.C. 2967.131, not in the bill.

⁵³ R.C. 2967.132(E).

attorney of a prisoner's eligibility for review under the bill's provisions at least 60 days before the Board begins any review or proceedings involving the prisoner.⁵⁴

Conforming changes required

The bill specifies that its provisions regarding parole eligibility of a prisoner for offenses committed when the prisoner was under 18 years of age are exceptions to the current law provisions in the Pardon, Parole, and Probation Law governing parole eligibility.⁵⁵

The bill amends the current laws governing the sentencing of a person who is convicted of or pleads guilty to murder,⁵⁶ specified offenses that are subject to the Sexually Violent Predator Sentencing Law,⁵⁷ or other felonies,⁵⁸ to state that if an offender is sentenced under any of those laws to life imprisonment without parole, life imprisonment, or to an indefinite prison term, the offender's parole eligibility must be determined under the bill's parole eligibility provisions for an offense other than a disqualifying homicide offense committed when the offender was less than 18 years at the time of the offense.

The bill also amends the law allowing a Parole Board hearing officer, a Parole Board member, or the Office of Victims' Services to petition the Board for a full Board hearing that relates to a proposed parole or re-parole of a prisoner to specifically include any prisoner described by the bill's parole eligibility provisions for offenses committed when the prisoner was under 18 years of age at the time of the offense.⁵⁹

HISTORY

ACTION	DATE
Introduced	10-26-17

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⁵⁴ R.C. 2967.132(F).

⁵⁵ R.C. 2967.13.

⁵⁶ R.C. 2929.02(C).

⁵⁷ R.C. 2971.03(G).

⁵⁸ R.C. 2929.14(L).

⁵⁹ R.C. 5149.101.

