

LIFE WITHOUT PAROLE: PROHIBIT FOR JUVENILES

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House Bill 4518
Sponsor: Rep. Bert Johnson

House Bill 4595
Sponsor: Rep. Dan Scripps

House Bill 4594
Sponsor: Rep. Rebekah Warren

House Bill 4596
Sponsor: Rep. Robert Jones

Committee: Judiciary

Complete to 5-5-09

A SUMMARY OF HOUSE BILL 4518 AS INTRODUCED 3-5-09 AND HOUSE BILLS 4594-4596 AS INTRODUCED 3-17-09

House Bills 4518 and 4594-4595 would amend various acts to prohibit sentencing a juvenile convicted of a crime to life without the possibility of parole, and House Bill 4596 would revise parole eligibility for juveniles sentenced as adults.

House Bills 4518, 4595, and 4596 are tie-barred to each other and to House Bill 4594, but House Bill 4594 is not tie-barred to the other three. Specifically, each bill would do the following:

House Bill 4518 would add a new section to the Michigan Penal Code (750.506b) to specify that an individual who was less than 18 years of age at the time of committing a crime could not be sentenced to imprisonment for life without parole eligibility for that crime.

House Bill 4594 would amend Chapter IX of the Code of Criminal Procedure (MCL 769.1 and 769.1b). Section 1 pertains to the authority of the court to pronounce judgment against and pass sentence upon a person convicted in that court; a court must sentence a juvenile convicted of certain crimes in the same manner as an adult, but has discretion in other cases to either place the juvenile on probation and commit the juvenile to an institution or agency described in the Youth Rehabilitation Services Act (a facility operated by the Department of Human Services or a county juvenile agency) or to impose any other sentence provided by law for an adult offender. Section 2 pertains to the court's authority to determine whether the juvenile, after having been placed on probation and committed to the juvenile justice system, has been rehabilitated and whether the juvenile presents a serious risk to public safety; a court can, after a final hearing before the probationary period ends, impose any other sentence provided by law for an adult offender if it determines that by so doing, the best interests of the public would be served.

The bill would provide that in either of these situations, the court could not sentence an individual who was less than 18 years of age at the time the crime was committed to imprisonment for life without parole eligibility.

House Bill 4595 would amend Chapter XIIA of the Probate Code (MCL 712A.2d and 712A.18). Currently, if a juvenile is tried as an adult, the court may, after entering a judgment of conviction and determining that the best interests of the public would be served, impose any sentence upon the juvenile that could be imposed upon an adult convicted of that crime. The bill would clarify that the sentence would have to be other than imprisonment for life without parole eligibility. The bill would also make numerous technical and editorial revisions.

House Bill 4596 would amend the Corrections Code (MCL 791.234). Currently, a prisoner sentenced to imprisonment for life without parole eligibility will die in prison unless he or she receives a reprieve, a commutation, or a pardon from the governor. In general, a person sentenced to life imprisonment who is eligible for parole may be placed on parole after serving 15 years of the sentence. All others must serve at least their minimum sentence before being eligible for parole.

The bill would revise the parole eligibility criteria for certain juveniles sentenced as adults. Under the bill, an individual who had been less than 18 years of age when the crime was committed would be eligible for parole after serving 10 years of the sentence. This would apply to (1) juveniles sentenced to serve a minimum term of imprisonment of 10 years; (2) juveniles sentenced to life imprisonment; and (3) juveniles sentenced to life imprisonment without parole eligibility.

In determining whether to release a person on parole under these new provisions, the parole board would have to consider all of the following:

- The individual's age and level of maturity at the time of the offense.
- The individual's degree of participation in the offense.
- The nature of the offense.
- The severity of the offense.
- Any prior juvenile or criminal history.
- The likelihood of the individual to commit further offenses.
- Any other information considered relevant by the parole board.

FISCAL IMPACT:

The bills could create savings for the Department of Corrections, and would have no fiscal impact on local units of government. At present, limited data are available to assess the potential fiscal impact of the bills.

The bills would:

- Forbid sentences of life without parole for offenders who were under age 18 at the times of their offenses (HBs 4518, 4594, 4595). Savings would affect relatively few prisoners and would begin to accrue upon the release of prisoners who otherwise would have been sentenced to life without the possibility of parole.
- Extend parole eligibility to prisoners who were under age 18 at the time of their offenses and who had served at least 10 years (HB 4596). Savings would depend on the number of prisoners made eligible for parole and the decisions of the parole board regarding those prisoners. Savings could begin to accrue immediately upon the release of prisoners paroled under the bill. The greatest impact would occur initially, when all affected prisoners who had served more than ten years were made eligible. Each year thereafter, a much smaller number of additional prisoners would reach the ten-year mark and become eligible for parole.

New Sentences; Forbid Life without Parole for Offenders under Age 18

In recent years, the number of felons annually committed to the Department of Corrections (MDOC) under sentences of life without the possibility of parole and who were under age 18 at the times of their offenses has decreased from 10 in 2002 to 3 in 2005, the most recent year for which data are available. Any savings would depend not only on the number of offenders who were sentenced to parolable sentences instead of nonparolable life, but also on the time served by those offenders, because savings would not begin to accrue until after the release of an offender who otherwise would have been sentenced to nonparolable life. While the bills would make such offenders eligible for parole after serving 10 years, there are no data to indicate what the average time to parole might be.

Savings attributable to the release of any one prisoner would depend on the incremental costs of housing that prisoner, which are roughly of \$10,000 to \$15,000 per year. Assuming an average life expectancy of 70 to 75 years, the lifetime cost of incarcerating someone committed at age 17 or under would be roughly \$500,000 to \$900,000.

Current Prisoners; Eligibility for Parole after 10 Years

According to the Department of Corrections, as of January 15, 2009, there were 485 prisoners serving life sentences for crimes committed when they were under age 18 (and who are not serving a life sentence for a crime committed after age 18). The number of prisoners currently serving non-life sentences of 10 years or more for crimes committed at age 17 or younger is not available at present.

Of the 485 serving life sentences, 139 were serving a sentence for parolable life, and the other 346 were serving a sentence of life without parole. Of the 485 prisoners serving parolable or nonparolable life, 405 had served 10 years or more, although not necessarily on the life term. The number of those who are already eligible for parole was not immediately available. There also are no data available at present on how many of these prisoners are subject to multiple sentences, have felony firearm convictions, or have other factors that might affect parole.

The numbers of prisoners released and consequent savings ultimately would depend on parole board decisions on prisoners made eligible for parole. There are no data to indicate how the parole board might respond to the prisoners made eligible by the bill. The overall parole approval rate was about 58 percent in 2008. Parole approval rates were about 21 percent for sex offenders, 43 percent for other violent offenders, 81 percent for drug offenders, and 71 percent for other nonviolent offenders. Any savings in the costs of incarceration would be offset by the cost of parole supervision, which in turn would depend on the level of supervision ordered. Costs of parole supervision can range from about \$2,100 per supervised offender per year to about \$8,000 annually for a parolee on GPS tether.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.