

**SUBJECT:** Earlier parole review for some offenses committed when younger than 18

**COMMITTEE:** Juvenile Justice and Family Issues — committee substitute recommended

**VOTE:** 9 ayes — Neave, Swanson, Cook, Frank, Leach, Ramos, Talarico, Vasut, Wu

0 nays

**WITNESSES:** For —Jennifer Toon, Coalition of Texans with Disabilities; Jasmine Bond, Leah Metzler, Michelle Munn, and Chris Self, Epicenter Initiative; Elizabeth Henneke, Lone Star Justice Alliance; Rachana Chhin, Texas Catholic Conference of Bishops; Justin Martinez, Texas Criminal Justice Coalition; Nikki Pressley, Texas Public Policy Foundation; Larry Robinson; (*Registered, but did not testify*: Nick Hudson, ACLU of Texas; Justin Keener, Doug Deason; Shauna Reyes and Deanna Luprete, Epicenter Initiative; Traci Berry, Goodwill Central Texas; Matthew Lovitt, National Alliance on Mental Illness (NAMI) Texas; Amelia Casas, Texas Fair Defense Project; Molly Weiner, United Ways of Texas; Thomas Parkinson)

Against — (*Registered, but did not testify*: Ray Hunt, HPOU)

On — (*Registered, but did not testify*: David Gutierrez, Board of Pardons and Paroles)

**BACKGROUND:** Individuals convicted of criminal offenses and sentenced to prison terms in a Texas Department of Criminal Justice (TDCJ) facility may be released from prison before serving their entire sentence and allowed to serve the remainder of their sentences in the community under parole supervision. Decisions about release on parole are made by the Board of Pardons and Parole or the board's parole panels. Government Code ch. 508 governs the board and includes provisions specifying how long inmates must serve before being considered for parole.

Capital murder is defined by Penal Code sec. 19.03 as murder in a specific situation or of a specific type of person, and this offense is a capital felony.

Under Penal Code sec. 12.31, those guilty of a capital felony committed when younger than 18 are sentenced to life in prison with the possibility of parole.

Under Government Code sec. 508.145(b), inmates sentenced to life in prison at the TDCJ for a capital felony that was committed when the offender was younger than 18 are eligible for release on parole when their calendar time served equals 40 years without consideration of good conduct time. Under Government Code sec. 499.053, individuals convicted of capital murder and transferred to TDCJ from the Texas Juvenile Justice Department are eligible for parole consideration when their calendar time served equals 30 years without consideration of good conduct time.

In general, individuals convicted of first-degree felonies are eligible for parole when their time served equals one-half of their sentences or 30 years, whichever is less, with a minimum of two years and without the consideration of good conduct time.

**DIGEST:**

CSHB 686 would reduce the minimum prison terms that had to be served before certain individuals who committed certain serious crimes when they were younger than 18 years old could be considered for release on parole and would require certain factors be considered when determining whether to release such an inmate on parole.

**Parole eligibility.** CSHB 686 would reduce the amount of time that certain individuals convicted of first-degree and capitol felonies that were committed when they were younger than 18 years old would have to serve in prison before they were eligible to be considered for parole. Rather than serve a minimum of 30 or 45 years, these inmates would be eligible for parole when their time served, without considering good conduct time, equaled 20 years or one-half of their term, whichever was less, with a minimum of four years.

HB 686 would apply to those serving sentences for a capital felonies or one of the serious first-degree felonies listed in Code of Criminal Procedure 42A.054 for which defendants can not be given judge-ordered community supervision. It also would apply to first-degree felony offenses of continuous human trafficking, continuous sexual abuse of a young child, directing activities of a street gang, and engaging in organized criminal activity.

The bill would not apply to those convicted of a capital felony for murdering more than one person during the same criminal transaction or during different transactions related to the same scheme or course of conduct. In such cases,

individuals would not be eligible for parole until their actual time served was 40 years, without consideration of good conduct time. However, the bill would apply to certain individuals convicted for murdering more than one person at a time if they were convicted under the certain provision of the law of parties relating to cases in which there was a conspiracy to commit a felony but another felony was committed by one of the conspirators.

**Parole consideration factors.** CSHB 686 would require parole panels to consider certain things when deciding whether individuals subject to the bill would be released on parole. Parole panels would have to assess the inmate's growth and maturity, the hallmark features of youth, and, as compared to adults, the diminished culpability of juveniles and the greater capacity of juveniles for change.

The Board of Pardons and Paroles would have to adopt a policy establishing factors for parole panels to consider when reviewing for parole an individual subject to CSHB 686. The policy would be required to:

- consider the age of the inmate at the time of the offense as a mitigating factor in favor of granting release on parole;
- allow those with knowledge of the inmate before the offense and knowledge of the inmate's growth and maturity after the offense to submit statements for the parole panel to consider; and
- establish a mechanism for the parole panel to consider an expert's comprehensive mental health evaluation of the inmate.

CSHB 686 would not affect certain rights of crime victims, their guardians, or the close relatives of deceased victims or create a legal cause of action.

**Effective date.** This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021. It would apply to any inmate in a TDCJ facility on or after the bill's effective date, regardless of when the offense for which the inmate was confined was committed.

**SUPPORTERS  
SAY:**

CSHB 686 would address the state's overly harsh sentencing policies for individuals who committed serious crimes when they were younger than 18 years old by allowing parole consideration to be made earlier for some of these individuals. The bill would impose what is sometimes called a "second look" at these inmates and recognize that rehabilitation is an important part of the criminal justice system by giving them a meaningful chance for a life in which

they could contribute to society.

Currently, individuals who commit serious felonies or capital murder while a youth can receive long prison sentences that require them to serve up to 40 years before being considered for release on parole. Many of these inmates were sentenced decades ago during a tough-on-crime era when juveniles were sentenced more harshly than today, and some were sentenced as a party to a crime, possibly for acts in which they did not take direct part and did not intend. This extreme sentencing has had serious effects on youths of color and highly vulnerable youths.

Such harsh sentencing ignores science about young brains lacking maturity, having an underdeveloped sense of responsibility, being more susceptible to poor decision-making, but also being more capable of change and rehabilitation. These long sentences provide no realistic mechanism for these offenders, who might have been sentenced to prison when as young as 14 years old, to be reviewed for parole for decades. Giving these offenders a meaningful chance to be reviewed for early release also would be in line with U.S. Supreme Court rulings banning death sentences for those under 18 at the time of a crime, eliminating mandatory life-without-parole for youthful offenders, and indicating that laws should reflect the differences between children and adults.

CSHB 39 would give the parole board a tool to consider these cases after an appropriate amount of time in prison but would not resentence or release anyone. The bill would ensure that parole panels assessed appropriate information about an inmate by requiring the consideration of certain information, such as the inmate's growth and maturity, and requiring a policy establishing what would be considered by the panels. Parole officials would weigh factors in each individual's case and decide whether to grant parole or to have individuals serve more of their sentences. The bill would not break promises made at the time of sentencing because individuals' sentences would not be altered, and parole eligibility laws are separate from sentencing provisions, with juries receiving instructions to not consider how parole laws apply to individuals. Victims would retain their rights and could continue to give input during the parole process.

Safeguards in the bill ensure it would be used in appropriate cases by excluding those guilty of multiple murders, such as mass shooters, who would continue to have to serve 40 years before being eligible for parole consideration. It is only fair that others — even those who have committed capital murder — be given

the chance to show they are rehabilitated by making them eligible for parole under the time frames that would be established by CSHB 686. The bill would ensure that no one was evaluated for parole unnaturally early by requiring a minimum of four years before consideration.

CSHB 686 could save the state money if the parole board approved release for individuals who would have served longer — perhaps decades — without the bill. Elderly inmates contribute significantly to the rising cost of prison health care, and CSHB 686 could lead to reduced costs in that area as well.

**CRITICS  
SAY:**

CSHB 686 would apply retroactively, and the time served before parole eligibility should not be shortened for inmates who have already been convicted and sentenced. Victims, surviving family members and friends, the public, and jurors were promised at the time of prosecution that an individual would be incarcerated for a certain number of years, and that promise should not be broken. In cases with plea agreements, victims and the inmate agreed to a sentence based on parole laws in effect at the time, and it would be unfair to change that agreement. Moving up parole eligibility could be especially hard on victims who want to weigh in on parole considerations and who might have to act years earlier than they had planned to participate in the parole process.

CSHB 686 also would go too far in including those accused of capital murder among those who would be considered for parole early. The seriousness of this crime warrants these offenders, even those who were young when the crime was committed, serve the minimum terms currently in statute.