



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2333

Introduced 2/26/2021, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-3	from Ch. 38, par. 1003-3-3
730 ILCS 5/3-3-3.1 new	
730 ILCS 5/3-5-1	from Ch. 38, par. 1003-5-1

Amends the Unified Code of Corrections. Provides that notwithstanding to the contrary, any provision of the Code, the Post-Conviction Hearing Article of the Code of Criminal Procedure of 1963, or the Habeas Corpus Article or the relief from judgment provisions of the Code of Civil Procedure, a person serving a term of imprisonment, including a term of natural life, in a Department of Corrections institution or facility is eligible for earned discretionary reentry if he or she has served a term of imprisonment of at least 20 years. Provides that petitions for earned discretionary reentry shall be administered by the Prisoner Review Board. Establishes procedures for the hearing. Removes provision that no person serving a term of natural life imprisonment may be paroled or released except through executive clemency. Provides that if any incarcerated person is released on earned discretionary reentry, his or her sentence shall be considered complete after the term of mandatory supervised release. Applies retroactively. Contains a severability provision.

LRB102 17347 KMF 22838 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Preamble. In recognition of the historical
5 harms of systemic racism and overly punitive sentencing, as
6 well as concerns to address mass incarceration and safely
7 reduce the prison population, this Act is needed to ensure
8 that persons are not serving excessive sentences with no
9 public benefit. By utilizing and extending existing review
10 mechanisms, this Act will reduce unnecessary incarceration,
11 reduce costs of incarceration, provide incentive to people
12 with long sentences to prepare for productive lives, make
13 prisons safer for incarcerated persons and prison staff, and
14 help bring the State in compliance with Section 11 of Article I
15 of the Illinois Constitution, which mandates that all
16 penalties aim to restore incarcerated people to useful
17 citizenship.

18 Section 5. The Unified Code of Corrections is amended by
19 changing Sections 3-3-3 and 3-5-1 and by adding Section
20 3-3-3.1 as follows:

21 (730 ILCS 5/3-3-3) (from Ch. 38, par. 1003-3-3)
22 Sec. 3-3-3. Eligibility for parole or release.

1 (a) Except as otherwise provided in Section 3-3-3.1 and
2 except ~~Except~~ for those offenders who accept the fixed release
3 date established by the Prisoner Review Board under Section
4 3-3-2.1, every person serving a term of imprisonment under the
5 law in effect prior to the effective date of this amendatory
6 Act of 1977 shall be eligible for parole when he or she has
7 served:

8 (1) the minimum term of an indeterminate sentence less
9 time credit for good behavior, or 20 years less time
10 credit for good behavior, whichever is less; or

11 (2) 20 years of a life sentence less time credit for
12 good behavior; or

13 (3) 20 years or one-third of a determinate sentence,
14 whichever is less, less time credit for good behavior.

15 (b) Except as otherwise provided in Section 3-3-3.1, no ~~no~~
16 person sentenced under this amendatory Act of 1977 or who
17 accepts a release date under Section 3-3-2.1 shall be eligible
18 for parole.

19 (c) Except as otherwise provided in Section 3-3-3.1, and
20 except ~~Except~~ for those sentenced to a term of natural life
21 imprisonment, every person sentenced to imprisonment under
22 this amendatory Act of 1977 or given a release date under
23 Section 3-3-2.1 of this Act shall serve the full term of a
24 determinate sentence less time credit for good behavior and
25 shall then be released under the mandatory supervised release
26 provisions of paragraph (d) of Section 5-8-1 of this Code.

1 (d) (Blank). ~~No person serving a term of natural life~~
2 ~~imprisonment may be paroled or released except through~~
3 ~~executive clemency.~~

4 (e) Every person committed to the Department of Juvenile
5 Justice under the Juvenile Court Act of 1987 and confined in
6 the State correctional institutions or facilities if such
7 juvenile has not been tried as an adult shall be eligible for
8 aftercare release under Section 3-2.5-85 of this Code.
9 However, if a juvenile has been tried as an adult he or she
10 shall only be eligible for parole or mandatory supervised
11 release as an adult under this Section.

12 (Source: P.A. 98-558, eff. 1-1-14; 99-628, eff. 1-1-17.)

13 (730 ILCS 5/3-3-3.1 new)

14 Sec. 3-3-3.1. Earned discretionary reentry; earned
15 discretionary reentry hearings; sentences of 20 years or
16 longer; life imprisonment; reentry.

17 (a) Notwithstanding to the contrary, any provision of this
18 Code, Article 122 of the Code of Criminal Procedure of 1963, or
19 Article X or Section 2-1401 of the Code of Civil Procedure, a
20 person serving a term of imprisonment, including a term of
21 natural life, in a Department of Corrections institution or
22 facility is eligible for earned discretionary reentry under
23 this Article if he or she has served a term of imprisonment of
24 at least 20 years. Petitions for earned discretionary reentry
25 shall be administered by the Prisoner Review Board.

1 (b) The Prisoner Review Board shall contact persons
2 eligible for earned discretionary reentry and conduct hearings
3 to determine whether they shall obtain earned discretionary
4 reentry as provided by this Article and the Open Parole
5 Hearings Act unless otherwise specified in this Section.

6 (c) Candidates who have been incarcerated for the longest
7 time, beyond 20 years, shall be heard first.

8 (d) Victims and victims' families shall be notified in a
9 timely manner and provided an opportunity to participate in
10 the hearing in accordance with the Rights of Crime Victims and
11 Witnesses Act, the Open Parole Hearings Act, and this Article.

12 (e) In determining whether a candidate should obtain
13 earned discretionary reentry, the Prisoner Review Board shall
14 consider the following factors:

15 (1) a statement, oral or written, by the candidate as
16 to the reasons why he or she should obtain earned
17 discretionary reentry;

18 (2) any of evidence of the candidate's rehabilitation
19 during the period of his or her incarceration, including
20 remorse for any criminal acts, if applicable;

21 (3) any evidence of the likelihood that the candidate
22 will not recidivate;

23 (4) any character references, letters of support from
24 family or community members, or references by staff,
25 volunteers, or incarcerated persons in the Department of
26 Corrections;

1 (5) any evidence of the candidate's participation in
2 educational, vocational, substance abuse, behavior
3 modification, life skills, or reentry planning programs;

4 (6) the candidate's disciplinary record while
5 incarcerated;

6 (7) the candidate's employment history while
7 incarcerated;

8 (8) the candidate's criminal history; and

9 (9) the candidate's parole plan, including plans for
10 housing, employment, and community support upon release
11 from incarceration; and

12 (f) If the programs or employment opportunities described
13 in this Section were not available to this candidate, the
14 Board shall not penalize the candidate for failure to
15 participate in them; nor shall the board penalize a candidate
16 for choosing not to work for the Department of Corrections;
17 nor shall the Board penalize a candidate for maintaining his
18 or her claim of innocence.

19 (g) Hearings under this Section shall be conducted by a
20 panel of at least 3 members of the Board. A majority vote of
21 the members present and voting at the hearing is required to
22 grant the petition and release the candidate.

23 (h) If earned discretionary reentry is denied under this
24 Section, the Board shall provide a written statement to the
25 candidate that shall include the reasons for the denial, what
26 the candidate must accomplish to attain earned discretionary

1 reentry in the future; and when the candidate is eligible to
2 reapply for earned discretionary reentry, which shall be no
3 later than 2 years after the denial. The candidate may seek a
4 continuance of up to 2 additional years.

5 (i) An incarcerated person described in this Section may
6 not be barred from any programming because his or her maximum
7 out date is not in the near future.

8 (j) Every incarcerated person described in this Section
9 may bring legal counsel or an advocate of his or her choice to
10 the earned discretionary reentry hearing.

11 (k) Every incarcerated person described in this Section
12 may attend and testify at his or her earned discretionary
13 reentry hearing in person or by video-conference or may have
14 counsel or an advocate read a statement.

15 (l) Every incarcerated person described in this Section
16 shall be provided full and complete access to his or her master
17 record file, with the exception of the names of verified
18 confidential informants, at least 60 days prior to any earned
19 discretionary reentry hearing. The incarcerated person has a
20 right to challenge any false, misleading, or otherwise
21 inaccurate information contained therein. The Department of
22 Corrections shall establish an expedited process for
23 incarcerated persons to challenge such false, misleading, or
24 otherwise inaccurate information so that it can be removed
25 prior to any earned discretionary reentry hearing. Every
26 incarcerated person described in this section may have counsel

1 assist them in challenging inaccurate information.

2 (m) If any incarcerated person is released on earned
3 discretionary reentry, his or her sentence shall be considered
4 complete after the term of mandatory supervised release.

5 (n) This Section applies retroactively to every person
6 currently serving a term of imprisonment in a Department of
7 Corrections institution or facility, which is necessary in
8 order to serve the important objectives listed in the
9 preamble, including that of restoring incarcerated individuals
10 to useful citizenship, as required by Section 11 of Article 1
11 of the Illinois Constitution.

12 (o) Nothing in this Section guarantees release. It only
13 provides the opportunity for the incarcerated person to
14 demonstrate his or her readiness to obtain earned
15 discretionary reentry.

16 (p) At the conclusion of the second year after the
17 effective date of this amendatory Act of the 102nd General
18 Assembly, subsection (c) no longer applies, and all candidates
19 who have been incarcerated at least 20 consecutive years shall
20 have equal opportunity for hearings.

21 (730 ILCS 5/3-5-1) (from Ch. 38, par. 1003-5-1)

22 Sec. 3-5-1. Master Record File.

23 (a) The Department of Corrections and the Department of
24 Juvenile Justice shall maintain a master record file on each
25 person committed to it, which shall contain the following

1 information:

2 (1) all information from the committing court;

3 (1.5) ethnic and racial background data collected in
4 accordance with Section 4.5 of the Criminal Identification
5 Act;

6 (2) reception summary;

7 (3) evaluation and assignment reports and
8 recommendations;

9 (4) reports as to program assignment and progress;

10 (5) reports of disciplinary infractions and
11 disposition, including tickets and Administrative Review
12 Board action;

13 (6) any parole or aftercare release plan;

14 (7) any parole or aftercare release reports;

15 (8) the date and circumstances of final discharge;

16 (9) criminal history;

17 (10) current and past gang affiliations and ranks;

18 (11) information regarding associations and family
19 relationships;

20 (12) any grievances filed and responses to those
21 grievances; and

22 (13) other information that the respective Department
23 determines is relevant to the secure confinement and
24 rehabilitation of the committed person.

25 (b) Except as otherwise provided in Section 3-3-3.1, all

26 ~~All~~ files shall be confidential and access shall be limited to

1 authorized personnel of the respective Department. Personnel
2 of other correctional, welfare or law enforcement agencies may
3 have access to files under rules and regulations of the
4 respective Department. The respective Department shall keep a
5 record of all outside personnel who have access to files, the
6 files reviewed, any file material copied, and the purpose of
7 access. If the respective Department or the Prisoner Review
8 Board makes a determination under this Code which affects the
9 length of the period of confinement or commitment, the
10 committed person and his counsel shall be advised of factual
11 information relied upon by the respective Department or Board
12 to make the determination, provided that the Department or
13 Board shall not be required to advise a person committed to the
14 Department of Juvenile Justice any such information which in
15 the opinion of the Department of Juvenile Justice or Board
16 would be detrimental to his treatment or rehabilitation.

17 (c) The master file shall be maintained at a place
18 convenient to its use by personnel of the respective
19 Department in charge of the person. When custody of a person is
20 transferred from the Department to another department or
21 agency, a summary of the file shall be forwarded to the
22 receiving agency with such other information required by law
23 or requested by the agency under rules and regulations of the
24 respective Department.

25 (d) The master file of a person no longer in the custody of
26 the respective Department shall be placed on inactive status

1 and its use shall be restricted subject to rules and
2 regulations of the Department.

3 (e) All public agencies may make available to the
4 respective Department on request any factual data not
5 otherwise privileged as a matter of law in their possession in
6 respect to individuals committed to the respective Department.
7 (Source: P.A. 97-696, eff. 6-22-12; 98-528, eff. 1-1-15;
8 98-558, eff. 1-1-14; 98-756, eff. 7-16-14.)

9 Section 97. Severability. The provisions of this Act are
10 severable under Section 1.31 of the Statute on Statutes.