



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3943

Introduced 1/21/2022, by Sen. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-1	from Ch. 38, par. 1003-3-1
730 ILCS 5/3-3-2	from Ch. 38, par. 1003-3-2
730 ILCS 5/3-3-3	from Ch. 38, par. 1003-3-3

Amends the Unified Code of Corrections. Provides that the Prisoner Review Board shall hear by at least one member and through a panel of at least 3 members determine the conditions of mandatory supervised release, determine the time of discharge from mandatory supervised release, impose sanctions for violations of mandatory supervised release, and revoke mandatory supervised release for a person who was originally prosecuted under the provisions of the Criminal Code of 1961 or the Criminal Code of 2012, sentenced under the provisions of this Code pursuant to various provisions of the Juvenile Court Act of 1987 that permit adult prosecution for the offense, and who was committed to the Department of Juvenile Justice under the Code, the Department of Juvenile Justice shall, no less than 180 days prior to the date that the person attains 21 years of age, send written notification to the Prisoner Review Board indicating the day upon which the committed person will attain 21 years of age. Provides that the Prisoner Review Board shall conduct a hearing prior to the person's 21st birthday with no less than 3 members to determine whether or not the person shall be assigned mandatory supervised release or be transferred to the Department of Corrections. Effective immediately.

LRB102 23251 RLC 32416 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 5. The Unified Code of Corrections is amended by
5 changing Sections 3-3-1, 3-3-2, and 3-3-3 as follows:

6 (730 ILCS 5/3-3-1) (from Ch. 38, par. 1003-3-1)

7 Sec. 3-3-1. Establishment and appointment of Prisoner
8 Review Board.

9 (a) There shall be a Prisoner Review Board independent of
10 the Department which shall be:

11 (1) the paroling authority for persons sentenced under
12 the law in effect prior to the effective date of this
13 amendatory Act of 1977;

14 (1.2) the paroling authority for persons eligible for
15 parole review under Section 5-4.5-115;

16 (1.5) (blank);

17 (2) the board of review for cases involving the
18 revocation of sentence credits or a suspension or
19 reduction in the rate of accumulating the credit;

20 (3) the board of review and recommendation for the
21 exercise of executive clemency by the Governor;

22 (4) the authority for establishing release dates for
23 certain prisoners sentenced under the law in existence

1 prior to the effective date of this amendatory Act of
2 1977, in accordance with Section 3-3-2.1 of this Code;

3 (5) the authority for setting conditions for parole
4 and mandatory supervised release under subsection (d) of
5 Section 5-8-1 ~~5-8-1(a)~~ and subsection (f) of Section 3-3-3
6 of this Code, and determining whether a violation of those
7 conditions warrant revocation of parole or mandatory
8 supervised release or the imposition of other sanctions;

9 (6) the authority for determining whether a violation
10 of aftercare release conditions warrant revocation of
11 aftercare release; and

12 (7) the authority to release medically infirm or
13 disabled prisoners under Section 3-3-14.

14 (b) The Board shall consist of 15 persons appointed by the
15 Governor by and with the advice and consent of the Senate. One
16 member of the Board shall be designated by the Governor to be
17 Chairman and shall serve as Chairman at the pleasure of the
18 Governor. The members of the Board shall have had at least 5
19 years of actual experience in the fields of penology,
20 corrections work, law enforcement, sociology, law, education,
21 social work, medicine, psychology, other behavioral sciences,
22 or a combination thereof. At least 6 members so appointed must
23 have at least 3 years experience in the field of juvenile
24 matters. No more than 8 Board members may be members of the
25 same political party.

26 Each member of the Board shall serve on a full-time basis

1 and shall not hold any other salaried public office, whether
2 elective or appointive, nor any other office or position of
3 profit, nor engage in any other business, employment, or
4 vocation. The Chairman of the Board shall receive \$35,000 a
5 year, or an amount set by the Compensation Review Board,
6 whichever is greater, and each other member \$30,000, or an
7 amount set by the Compensation Review Board, whichever is
8 greater.

9 (c) Notwithstanding any other provision of this Section,
10 the term of each member of the Board who was appointed by the
11 Governor and is in office on June 30, 2003 shall terminate at
12 the close of business on that date or when all of the successor
13 members to be appointed pursuant to this amendatory Act of the
14 93rd General Assembly have been appointed by the Governor,
15 whichever occurs later. As soon as possible, the Governor
16 shall appoint persons to fill the vacancies created by this
17 amendatory Act.

18 Of the initial members appointed under this amendatory Act
19 of the 93rd General Assembly, the Governor shall appoint 5
20 members whose terms shall expire on the third Monday in
21 January 2005, 5 members whose terms shall expire on the third
22 Monday in January 2007, and 5 members whose terms shall expire
23 on the third Monday in January 2009. Their respective
24 successors shall be appointed for terms of 6 years from the
25 third Monday in January of the year of appointment. Each
26 member shall serve until his or her successor is appointed and

1 qualified.

2 Any member may be removed by the Governor for
3 incompetence, neglect of duty, malfeasance or inability to
4 serve.

5 (d) The Chairman of the Board shall be its chief executive
6 and administrative officer. The Board may have an Executive
7 Director; if so, the Executive Director shall be appointed by
8 the Governor with the advice and consent of the Senate. The
9 salary and duties of the Executive Director shall be fixed by
10 the Board.

11 (Source: P.A. 101-288, eff. 1-1-20; 102-494, eff. 1-1-22.)

12 (730 ILCS 5/3-3-2) (from Ch. 38, par. 1003-3-2)

13 Sec. 3-3-2. Powers and duties.

14 (a) The Parole and Pardon Board is abolished and the term
15 "Parole and Pardon Board" as used in any law of Illinois, shall
16 read "Prisoner Review Board." After February 1, 1978 (the
17 effective date of Public Act 81-1099), the Prisoner Review
18 Board shall provide by rule for the orderly transition of all
19 files, records, and documents of the Parole and Pardon Board
20 and for such other steps as may be necessary to effect an
21 orderly transition and shall:

22 (1) hear by at least one member and through a panel of
23 at least 3 members decide, cases of prisoners who were
24 sentenced under the law in effect prior to February 1,
25 1978 (the effective date of Public Act 81-1099), and who

1 are eligible for parole;

2 (2) hear by at least one member and through a panel of
3 at least 3 members decide, the conditions of parole and
4 the time of discharge from parole, impose sanctions for
5 violations of parole, and revoke parole for those
6 sentenced under the law in effect prior to February 1,
7 1978 (the effective date of Public Act 81-1099); provided
8 that the decision to parole and the conditions of parole
9 for all prisoners who were sentenced for first degree
10 murder or who received a minimum sentence of 20 years or
11 more under the law in effect prior to February 1, 1978
12 shall be determined by a majority vote of the Prisoner
13 Review Board. One representative supporting parole and one
14 representative opposing parole will be allowed to speak.
15 Their comments shall be limited to making corrections and
16 filling in omissions to the Board's presentation and
17 discussion;

18 (3) hear by at least one member and through a panel of
19 at least 3 members decide, the conditions of mandatory
20 supervised release and the time of discharge from
21 mandatory supervised release, impose sanctions for
22 violations of mandatory supervised release, and revoke
23 mandatory supervised release for those sentenced under the
24 law in effect after February 1, 1978 (the effective date
25 of Public Act 81-1099);

26 (3.5) hear by at least one member and through a panel

1 of at least 3 members decide, the conditions of mandatory
2 supervised release and the time of discharge from
3 mandatory supervised release, to impose sanctions for
4 violations of mandatory supervised release and revoke
5 mandatory supervised release for those serving extended
6 supervised release terms pursuant to paragraph (4) of
7 subsection (d) of Section 5-8-1;

8 (3.6) hear by at least one member and through a panel
9 of at least 3 members decide whether to revoke aftercare
10 release for those committed to the Department of Juvenile
11 Justice under the Juvenile Court Act of 1987;

12 (4) hear by at least one member and through a panel of
13 at least 3 members, decide cases brought by the Department
14 of Corrections against a prisoner in the custody of the
15 Department for alleged violation of Department rules with
16 respect to sentence credits under Section 3-6-3 of this
17 Code in which the Department seeks to revoke sentence
18 credits, if the amount of time at issue exceeds 30 days or
19 when, during any 12-month period, the cumulative amount of
20 credit revoked exceeds 30 days except where the infraction
21 is committed or discovered within 60 days of scheduled
22 release. In such cases, the Department of Corrections may
23 revoke up to 30 days of sentence credit. The Board may
24 subsequently approve the revocation of additional sentence
25 credit, if the Department seeks to revoke sentence credit
26 in excess of 30 days. However, the Board shall not be

1 empowered to review the Department's decision with respect
2 to the loss of 30 days of sentence credit for any prisoner
3 or to increase any penalty beyond the length requested by
4 the Department;

5 (5) hear by at least one member and through a panel of
6 at least 3 members decide, the release dates for certain
7 prisoners sentenced under the law in existence prior to
8 February 1, 1978 (the effective date of Public Act
9 81-1099), in accordance with Section 3-3-2.1 of this Code;

10 (6) hear by at least one member and through a panel of
11 at least 3 members decide, all requests for pardon,
12 reprieve or commutation, and make confidential
13 recommendations to the Governor;

14 (6.5) hear by at least one member who is qualified in
15 the field of juvenile matters and through a panel of at
16 least 3 members, 2 of whom are qualified in the field of
17 juvenile matters, decide parole review cases in accordance
18 with Section 5-4.5-115 of this Code and make release
19 determinations of persons under the age of 21 at the time
20 of the commission of an offense or offenses, other than
21 those persons serving sentences for first degree murder or
22 aggravated criminal sexual assault;

23 (6.6) hear by at least a quorum of the Prisoner Review
24 Board and decide by a majority of members present at the
25 hearing, in accordance with Section 5-4.5-115 of this
26 Code, release determinations of persons under the age of

1 21 at the time of the commission of an offense or offenses
2 of those persons serving sentences for first degree murder
3 or aggravated criminal sexual assault;

4 (6.7) hear by at least one member and through a panel
5 of at least 3 members determine the conditions of
6 mandatory supervised release, determine the time of
7 discharge from mandatory supervised release, impose
8 sanctions for violations of mandatory supervised release,
9 and revoke mandatory supervised release for those
10 sentenced under subsection (f) of Section 3-3-3 of this
11 Code;

12 (7) comply with the requirements of the Open Parole
13 Hearings Act;

14 (8) hear by at least one member and, through a panel of
15 at least 3 members, decide cases brought by the Department
16 of Corrections against a prisoner in the custody of the
17 Department for court dismissal of a frivolous lawsuit
18 pursuant to Section 3-6-3(d) of this Code in which the
19 Department seeks to revoke up to 180 days of sentence
20 credit, and if the prisoner has not accumulated 180 days
21 of sentence credit at the time of the dismissal, then all
22 sentence credit accumulated by the prisoner shall be
23 revoked;

24 (9) hear by at least 3 members, and, through a panel of
25 at least 3 members, decide whether to grant certificates
26 of relief from disabilities or certificates of good

1 conduct as provided in Article 5.5 of Chapter V;

2 (10) upon a petition by a person who has been
3 convicted of a Class 3 or Class 4 felony and who meets the
4 requirements of this paragraph, hear by at least 3 members
5 and, with the unanimous vote of a panel of 3 members, issue
6 a certificate of eligibility for sealing recommending that
7 the court order the sealing of all official records of the
8 arresting authority, the circuit court clerk, and the
9 Illinois State Police concerning the arrest and conviction
10 for the Class 3 or 4 felony. A person may not apply to the
11 Board for a certificate of eligibility for sealing:

12 (A) until 5 years have elapsed since the
13 expiration of his or her sentence;

14 (B) until 5 years have elapsed since any arrests
15 or detentions by a law enforcement officer for an
16 alleged violation of law, other than a petty offense,
17 traffic offense, conservation offense, or local
18 ordinance offense;

19 (C) if convicted of a violation of the Cannabis
20 Control Act, Illinois Controlled Substances Act, the
21 Methamphetamine Control and Community Protection Act,
22 the Methamphetamine Precursor Control Act, or the
23 Methamphetamine Precursor Tracking Act unless the
24 petitioner has completed a drug abuse program for the
25 offense on which sealing is sought and provides proof
26 that he or she has completed the program successfully;

- 1 (D) if convicted of:
- 2 (i) a sex offense described in Article 11 or
- 3 Sections 12-13, 12-14, 12-14.1, 12-15, or 12-16 of
- 4 the Criminal Code of 1961 or the Criminal Code of
- 5 2012;
- 6 (ii) aggravated assault;
- 7 (iii) aggravated battery;
- 8 (iv) domestic battery;
- 9 (v) aggravated domestic battery;
- 10 (vi) violation of an order of protection;
- 11 (vii) an offense under the Criminal Code of
- 12 1961 or the Criminal Code of 2012 involving a
- 13 firearm;
- 14 (viii) driving while under the influence of
- 15 alcohol, other drug or drugs, intoxicating
- 16 compound or compounds, or any combination thereof;
- 17 (ix) aggravated driving while under the
- 18 influence of alcohol, other drug or drugs,
- 19 intoxicating compound or compounds, or any
- 20 combination thereof; or
- 21 (x) any crime defined as a crime of violence
- 22 under Section 2 of the Crime Victims Compensation
- 23 Act.

24 If a person has applied to the Board for a certificate

25 of eligibility for sealing and the Board denies the

26 certificate, the person must wait at least 4 years before

1 filing again or filing for pardon from the Governor unless
2 the Chairman of the Prisoner Review Board grants a waiver.

3 The decision to issue or refrain from issuing a
4 certificate of eligibility for sealing shall be at the
5 Board's sole discretion, and shall not give rise to any
6 cause of action against either the Board or its members.

7 The Board may only authorize the sealing of Class 3
8 and 4 felony convictions of the petitioner from one
9 information or indictment under this paragraph (10). A
10 petitioner may only receive one certificate of eligibility
11 for sealing under this provision for life; and

12 (11) upon a petition by a person who after having been
13 convicted of a Class 3 or Class 4 felony thereafter served
14 in the United States Armed Forces or National Guard of
15 this or any other state and had received an honorable
16 discharge from the United States Armed Forces or National
17 Guard or who at the time of filing the petition is enlisted
18 in the United States Armed Forces or National Guard of
19 this or any other state and served one tour of duty and who
20 meets the requirements of this paragraph, hear by at least
21 3 members and, with the unanimous vote of a panel of 3
22 members, issue a certificate of eligibility for
23 expungement recommending that the court order the
24 expungement of all official records of the arresting
25 authority, the circuit court clerk, and the Illinois State
26 Police concerning the arrest and conviction for the Class

1 3 or 4 felony. A person may not apply to the Board for a
2 certificate of eligibility for expungement:

3 (A) if convicted of:

4 (i) a sex offense described in Article 11 or
5 Sections 12-13, 12-14, 12-14.1, 12-15, or 12-16 of
6 the Criminal Code of 1961 or Criminal Code of
7 2012;

8 (ii) an offense under the Criminal Code of
9 1961 or Criminal Code of 2012 involving a firearm;
10 or

11 (iii) a crime of violence as defined in
12 Section 2 of the Crime Victims Compensation Act;
13 or

14 (B) if the person has not served in the United
15 States Armed Forces or National Guard of this or any
16 other state or has not received an honorable discharge
17 from the United States Armed Forces or National Guard
18 of this or any other state or who at the time of the
19 filing of the petition is serving in the United States
20 Armed Forces or National Guard of this or any other
21 state and has not completed one tour of duty.

22 If a person has applied to the Board for a certificate
23 of eligibility for expungement and the Board denies the
24 certificate, the person must wait at least 4 years before
25 filing again or filing for a pardon with authorization for
26 expungement from the Governor unless the Governor or

1 Chairman of the Prisoner Review Board grants a waiver.

2 (a-5) The Prisoner Review Board, with the cooperation of
3 and in coordination with the Department of Corrections and the
4 Department of Central Management Services, shall implement a
5 pilot project in 3 correctional institutions providing for the
6 conduct of hearings under paragraphs (1) and (4) of subsection
7 (a) of this Section through interactive video conferences. The
8 project shall be implemented within 6 months after January 1,
9 1997 (the effective date of Public Act 89-490). Within 6
10 months after the implementation of the pilot project, the
11 Prisoner Review Board, with the cooperation of and in
12 coordination with the Department of Corrections and the
13 Department of Central Management Services, shall report to the
14 Governor and the General Assembly regarding the use, costs,
15 effectiveness, and future viability of interactive video
16 conferences for Prisoner Review Board hearings.

17 (b) Upon recommendation of the Department the Board may
18 restore sentence credit previously revoked.

19 (c) The Board shall cooperate with the Department in
20 promoting an effective system of parole and mandatory
21 supervised release.

22 (d) The Board shall promulgate rules for the conduct of
23 its work, and the Chairman shall file a copy of such rules and
24 any amendments thereto with the Director and with the
25 Secretary of State.

26 (e) The Board shall keep records of all of its official

1 actions and shall make them accessible in accordance with law
2 and the rules of the Board.

3 (f) The Board or one who has allegedly violated the
4 conditions of his or her parole, aftercare release, or
5 mandatory supervised release may require by subpoena the
6 attendance and testimony of witnesses and the production of
7 documentary evidence relating to any matter under
8 investigation or hearing. The Chairman of the Board may sign
9 subpoenas which shall be served by any agent or public
10 official authorized by the Chairman of the Board, or by any
11 person lawfully authorized to serve a subpoena under the laws
12 of the State of Illinois. The attendance of witnesses, and the
13 production of documentary evidence, may be required from any
14 place in the State to a hearing location in the State before
15 the Chairman of the Board or his or her designated agent or
16 agents or any duly constituted Committee or Subcommittee of
17 the Board. Witnesses so summoned shall be paid the same fees
18 and mileage that are paid witnesses in the circuit courts of
19 the State, and witnesses whose depositions are taken and the
20 persons taking those depositions are each entitled to the same
21 fees as are paid for like services in actions in the circuit
22 courts of the State. Fees and mileage shall be vouchered for
23 payment when the witness is discharged from further
24 attendance.

25 In case of disobedience to a subpoena, the Board may
26 petition any circuit court of the State for an order requiring

1 the attendance and testimony of witnesses or the production of
2 documentary evidence or both. A copy of such petition shall be
3 served by personal service or by registered or certified mail
4 upon the person who has failed to obey the subpoena, and such
5 person shall be advised in writing that a hearing upon the
6 petition will be requested in a court room to be designated in
7 such notice before the judge hearing motions or extraordinary
8 remedies at a specified time, on a specified date, not less
9 than 10 nor more than 15 days after the deposit of the copy of
10 the written notice and petition in the U.S. mail addressed to
11 the person at his or her last known address or after the
12 personal service of the copy of the notice and petition upon
13 such person. The court upon the filing of such a petition, may
14 order the person refusing to obey the subpoena to appear at an
15 investigation or hearing, or to there produce documentary
16 evidence, if so ordered, or to give evidence relative to the
17 subject matter of that investigation or hearing. Any failure
18 to obey such order of the circuit court may be punished by that
19 court as a contempt of court.

20 Each member of the Board and any hearing officer
21 designated by the Board shall have the power to administer
22 oaths and to take the testimony of persons under oath.

23 (g) Except under subsection (a) of this Section, a
24 majority of the members then appointed to the Prisoner Review
25 Board shall constitute a quorum for the transaction of all
26 business of the Board.

1 (h) The Prisoner Review Board shall annually transmit to
2 the Director a detailed report of its work for the preceding
3 calendar year. The annual report shall also be transmitted to
4 the Governor for submission to the Legislature.

5 (Source: P.A. 101-288, eff. 1-1-20; 102-538, eff. 8-20-21;
6 102-558, eff. 8-20-21.)

7 (730 ILCS 5/3-3-3) (from Ch. 38, par. 1003-3-3)

8 Sec. 3-3-3. Eligibility for parole or release.

9 (a) Except for those offenders who accept the fixed
10 release date established by the Prisoner Review Board under
11 Section 3-3-2.1, every person serving a term of imprisonment
12 under the law in effect prior to the effective date of this
13 amendatory Act of 1977 shall be eligible for parole when he or
14 she has served:

15 (1) the minimum term of an indeterminate sentence less
16 time credit for good behavior, or 20 years less time
17 credit for good behavior, whichever is less; or

18 (2) 20 years of a life sentence less time credit for
19 good behavior; or

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

22 (b) No person sentenced under this amendatory Act of 1977
23 or who accepts a release date under Section 3-3-2.1 shall be
24 eligible for parole.

25 (c) Except for those sentenced to a term of natural life

1 imprisonment, every person sentenced to imprisonment under
2 this amendatory Act of 1977 or given a release date under
3 Section 3-3-2.1 of this Act shall serve the full term of a
4 determinate sentence less time credit for good behavior and
5 shall then be released under the mandatory supervised release
6 provisions of paragraph (d) of Section 5-8-1 of this Code.

7 (d) No person serving a term of natural life imprisonment
8 may be paroled or released except through executive clemency.

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

17 (f) If a person was originally prosecuted under the
18 provisions of the Criminal Code of 1961 or the Criminal Code of
19 2012, sentenced under the provisions of this Code pursuant to
20 Sections 5-805, 5-125, 5-130, or 5-810 of the Juvenile Court
21 Act of 1987, and committed to the Department of Juvenile
22 Justice under Section 5-8-6, the Department of Juvenile
23 Justice shall, no less than 180 days prior to the date that the
24 person attains 21 years of age, send written notification to
25 the Prisoner Review Board indicating the day upon which the
26 committed person will attain 21 years of age. The Prisoner

1 Review Board shall conduct a hearing prior to the person's
2 21st birthday with no less than 3 members to determine whether
3 or not the person shall be assigned mandatory supervised
4 release or be transferred to the Department of Corrections.

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

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.