

Earned Discretionary Release

AN ACT concerning criminal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 3-3-3.1. Earned Discretionary Release; parole hearings; sentences of 20 years or longer; life imprisonment; early release.

(a) Notwithstanding to the contrary any provision of this Code, Article 122 of the Code of Criminal Procedure of 1963, Article X of the Code of Civil Procedure, or Section 2-1401 of the Code of Civil Procedure, a person serving a term of imprisonment in a Department of Corrections institution or facility is eligible for Earned Discretionary Release and parole hearings

under this Article if he or she has served the greater of: (1) a term of imprisonment of at least 20 years; (2) 25% of his or her sentence; or (3) the minimum term of imprisonment for the most serious offense for which the person was convicted. A person serving a term of natural life imprisonment is eligible for Earned Discretionary Release and parole hearings under this Article after serving a term of imprisonment of at least 20 years. A person seeking early release under this Section may petition the Prisoner Review Board in the same manner as a person eligible for parole under Section 3-3-2.1 of this Code and the parole hearing shall be conducted as otherwise provided in this Article and the Open Parole Hearings Act unless otherwise provided in this Section.

(b) Veterans, as defined in Section 10 of the Veterans and Service Members Court Treatment Act, who have been honorably discharged are eligible for additional good time credit as determined by the Prisoner Review Board.

(c) A risk assessment instrument shall be used to evaluate every committed person described in this Section at the time of his or her admittance to an institution or facility of the Department for the offense or offenses that resulted in the person's sentence in order to determine the risk factors and identify goals or behavior that the committed person needs to achieve or change in order to be released

(d) Each committed person eligible for Earned Discretionary Release under this Section on the effective date of this amendatory Act of the 101st General Assembly shall receive a risk assessment within one year after the effective date of this amendatory Act of the 101st General Assembly.

(e) Victims have the right to be present and involved in the initial outlining of the goals for a committed person described in this Section. Victims may have input into the goals that must be achieved by a committed person before the committed person may be released. The risk assessment instrument shall be the primary factor for determining what goals a committed person must accomplish before being released. Each interested party may have meaningful input before the determination of the petitioner's final goals.

(f) On the effective date of this amendatory Act of the 101st General Assembly, prior evidence of the petitioner's participation in rehabilitative programs shall be added to the petitioner's master record file under Section 3-5-1 and shall be considered at the petitioner's parole hearing.

(g) The source code of any risk assessment instrument under subsection (d) shall be made available to a panel composed of representatives from the Illinois Criminal Justice Information Authority and the Illinois Sentencing Policy Advisory Council for periodic review for racial, religious, ethnic, gender, sexual orientation, and socio-economic biases.

(h) The Department has a duty to provide rehabilitative programming for each committed person described in this Section.

(i) A committed person described in this Section may not be barred from rehabilitative programming because his or her anticipated release is not in the near future.

(j) A committed person described in this section during any period of his or her imprisonment in a Department institution or facility has the right to engage in rehabilitative programming after meeting with a counselor and developing an individualized plan of rehabilitation which shall be made available to the Prisoner Review Board prior to the parole hearing.

(k) On the effective date of this amendatory Act of the 101st General Assembly, each correctional facility shall comprehensively evaluate how well it facilitates relationships between committed persons in its custody and their family members. This includes, but is not limited to: visiting hours and procedures, phone call protocol and costs, letter writing, and other factors

deemed relevant by the Director of Corrections.

(l) Every committed person described in this Section shall have the right to legal representation at his or her parole hearing(s). If the committed person cannot afford legal counsel, free legal service representatives may be utilized.

(m) Every committed person described in this section may attend and testify at his or her parole hearing(s).

(n) Every committed person described in this Section, shall be provided full and complete access to his or her Master Record File at least 60 days prior to any parole hearing. The committed person has a right to challenge any false, misleading, or otherwise inaccurate information contained therein. The Department of Corrections shall establish an expedited process for committed persons to challenge such false, misleading, or otherwise inaccurate information so that it can be removed prior to any parole hearing.

(o) Nothing in this amendatory Act of the 101st General Assembly guarantees release. It only guarantees the opportunity of the committed person to present evidence at his or her parole hearing to demonstrate the committed person's rehabilitation before the Prisoner Review Board and to seek Earned Discretionary Release.

(730 ILCS 5/3-5-1) (From Ch. 38, par. 1003-5-1)
Sec. 3-5-1, Master Record File.

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

- (1) all information from the committing court;
- (1.5) ethnic and racial background data collected in accordance with Section 4.5 of the Criminal Identification Act;
- (2) reception summary;
- (3) evaluation and assignment reports and recommendations;
- (4) reports to program assignment and progress;
- (5) reports of disciplinary infractions and disposition, including tickets and Administrative Review Board action;
- (6) any parole or after care release plan;
- (7) any parole or aftercare release reports;
- (8) the date and circumstances of final discharge;
- (9) criminal history;
- (10) current and past gang affiliations and ranks;
- (11) information regarding associations and family relationships;
- (12) any grievances filed and responses to those grievances; and
- (13) other information that the respective Department determines is relevant to the secure confinement and rehabilitation of the committed person.

(b) Except as otherwise provided in Section 3-3-3.1(n), aAll files shall be confidential and access shall be limited to authorized personnel of the respective Department. Personnel of other correctional, welfare or law enforcement agencies may have access to files under rules and regulations of the respective Department. The respective Department shall keep a record of all outside personnel who have access to files, the files reviewed, any file material copied, and the purpose of access. If the respective Department or the Prisoner Review Board makes a determination under this Code which affects the length of the period of confinement or commitment, the committed person and his counsel shall be advised of factual information relied

upon by the respective Department or Board to make the determination, provided that the Department or Board shall not be required to advise a person committed to the Department of Juvenile Justice any such information which in the opinion of the Department of Juvenile Justice or Board would be detrimental to his treatment or rehabilitation.

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

(d) The master file of a person no longer in the custody of the respective Department shall be placed on inactive status and its use shall be restricted subject to rules and regulations of the Department.

(e) All public agencies may make available to the respective Department on request any factual data not otherwise privileged as a matter of law in their possession in respect to individual committed to the respective Department.

(Source: P.A. 77-2097, eff. 1-1-73; P.A. 80-1099, eff. 2-1-78; P.A. 89-688, eff. 6-1-97; P.A. 89-689, eff. 12-31-96; P.A. 94-696, eff. 6-1-06; P.A. 97-696, eff. 6-22-12; P.A. 98-528, eff. 1-1-15; P.A. 98-558, eff. 1-1-14; P.A. 98-756, eff. 7-16-14.)

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