

LIFE WITHOUT PAROLE: PROHIBIT FOR JUVENILES

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House Bill 4402
Sponsor: Rep. Paul Condino

House Bill 4404
Sponsor: Rep. Mark Meadows

House Bill 4403
Sponsor: Rep. Virgil Smith

House Bill 4405
Sponsor: Rep. Robert Jones

Committee: Judiciary

Complete to 1-22-08

A SUMMARY OF HOUSE BILLS 4402-4405 AS INTRODUCED 3-6-07

House Bills 4402-4404 would amend various acts to prohibit sentencing a juvenile convicted of certain crimes to life without the possibility of parole and House Bill 4405 would revise parole eligibility for juveniles sentenced as adults. House Bills 4402, 4403, and 4405 are tie-barred to each other and to House Bill 4404, but House Bill 4404 is not tie-barred to the other three. Specifically, each bill would do the following:

House Bill 4402 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 4403 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 4404 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 him or her 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 4405 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 his or her 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 his or her 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 4402, 4403, 4404). 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 4405). 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

Over the past few 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 have decreased from 10 in 2002 to 3 in 2005. 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 ten years, there are no data to indicate what the average time to parole might be.

Assuming an average life expectancy of 70 to 75 years and an average appropriated cost of imprisonment of roughly \$30,000 to \$35,000 per prisoner per year, the total cost of incarcerating someone committed at age 17 or under may be said to be about \$1.6 million to \$2.0 million. However, this includes various fixed costs associated with institutional and departmental operations; savings attributable to the release of any one prisoner would depend on the incremental costs of housing that prisoner.

Current Prisoners; Eligibility for Parole after Ten Years

According to the Department of Corrections, there are 992 prisoners sentenced for crimes committed when under age 18 who have not yet become eligible for parole and have served at least ten years on sentences of more than ten years (including parolable and nonparolable life). Of those, 453 were sentenced to life terms (either with or without the possibility of parole), and 539 were sentenced to terms of more than ten years. Data from March 2007 suggest that of the 453 lifers, approximately 340 are serving life without the possibility of parole. There 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 52 percent in 2007. The parole approval rate for violent offenders (other than sex offenders) was about 35 percent in 2006, the most recent year for which such information is available. If 900 prisoners became eligible for parole, and 25 to 35 percent of these were approved for parole, full-year savings under

the bill could be \$3.4 million to \$6.3 million, based on incremental incarceration costs of roughly \$15,000 to \$20,000 per prisoner. Savings in the costs of incarceration would be offset to some extent by the cost of parole supervision, which in turn would depend on the level of supervision ordered.

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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.