

Proposal: End Power of Successor Sentencing Judges to Veto Lifer Paroles

The Parole Process for Lifers

People who are serving “parolable life” sentences become eligible for release after either 10 or 15 years, depending on the date of the offense.

- The parole board must conduct a public hearing at which the prisoner is examined extensively and both supporters and opponents of release may testify.
- The board must notify the sentencing judge or that judge’s successor in office, as well as the prosecutor, of its intent to hold a hearing. If the judge objects, in writing, within 30 days, the board loses its authority to grant release.

The Problem

A successor to the sentencing judge, who has had no prior contact with the case, can override the parole process for years by simply saying: “I object.”

- The judge does not have to hold a hearing, consider any specified criteria or review any particular facts.
- The judge does not have to state any reasons for objecting and the decision is not subject to any review.
- Lifers who the parole board believes to be low-risk and ready to return to the community have no recourse but to wait until the judge reconsiders or leaves the bench – and hope that the next successor judge feels differently.
- Whether similar lifers from the same county have their paroles vetoed can depend solely on the luck of the draw.
- Over the last several years, at least 39 parolable lifers have had their consideration for release stopped by the objections of successor judges. Most had been sentenced in the 1970s. Some were gravely ill.

The Solution

Amend MCL 791.234 (8) (c) so the objection of a successor judge does not stop a parole.

- The judge would still have his or her input considered by the parole board, as would the prosecutor, the victim or victim’s family and the Attorney General.
- The parole board could still decide against release at any point in the process.

The extension of the right to object to successor judges has not been reconsidered since it was adopted in 1953. It is totally out of sync with current notions of due process.

The lifer objection process also places successor judges in a difficult position. The Michigan Judges Association supports this amendment.

Cost Savings

Because lifers are an aging population with increasing health problems and they are reviewed only every five years, each veto costs taxpayers about \$200,000.

If just 35 of the lifers who were vetoed by successor judges had been paroled after a public hearing, the savings would have been \$1.75 million for every year they didn’t serve.