

## **Pending bills affecting lifers**

### **Summary of House Bills 4806, 4807, 4808, 4809:**

#### **HB 4806**

HB 4806 will permit resentencing of a person sentenced to mandatory life in prison without parole for a crime committed when the person was less than 18 years old. The procedure for resentencing is as follows:

- Either the prosecutor or prisoner may file a motion for resentencing.
- If the prosecutor files a motion to seek a sentence of life without parole, the prisoner may file a response within 28 days, as to why they should instead seek a sentence of parolable life or a term of years.
- If the prisoner files a motion for resentencing to seek imposition of a parolable life or a term of years, the prosecutor has 28 days to respond. If the prosecutor fails to respond, the court must resentence.
- If the prosecutor seeks resentencing or contests a prisoner's motion, the court must conduct a hearing to consider the following factors:
  - The person's character and record
  - The circumstances of the offense, including the extent of the person's participation and whether s/he was affected by familial or peer pressure
  - The person's age at offense
  - The person's background and mental and emotional development at the time of offense
  - The person's family and home at the time of offense
  - Whether the person might have been charged and convicted of a lesser offense if not for incompetency associated with youth
  - The person's potential for rehabilitation
  - Any other aggravating or mitigating circumstances bearing on the person's culpability or potential for rehabilitation.
- The hearing is subject to the rules of evidence. The court must place on the record any aggravating and mitigating circumstances it considers and articulate reasons supporting the sentence it imposes.

#### **HB 4807**

Amends the probate code to prohibit mandatory sentencing of juveniles to LWOP.

#### **HB 4808**

Amends the penal code to prohibit mandatory sentencing of juveniles to LWOP.

#### **HB 4809**

As introduced, HB 4809 creates parole eligibility at 15 years for "juvenile lifers" resented to parolable life terms.

**The following reforms would affect *everyone* serving parolable life sentences:**

- Requires that parolable lifers be considered for parole according to the same criteria and utilizing the same assessment tools that are applied to all prisoners being considered for parole.
- Requires an interview when a lifer becomes eligible for parole and every two years thereafter. (Eliminates file reviews but allows for interactive video.)
- Defines a decision not to proceed to public hearing as a decision to deny parole (and therefore requires written explanation of reasons for denial).
- Permits successor judges to file written objections to parole but only an objection by original sentencing judge can deny the board jurisdiction to release.

**HB 4809 also establishes criteria for board to consider in deciding parole for *any prisoner who was under 18 at the time of his or her offenses*:**

- Character and criminal and institutional records
- Circumstance of offense, including extent of participation and impact of familial or peer pressure
- Age at offense
- Background and mental and emotional development at time of offense
- Family and home environment at the time of offense
- Whether s/he could have been charged and convicted of a lesser offense if not for incompetency associated with youth
- Potential for rehabilitation

**In addition, Rick Jones introduced Senate Bill 319, which would not permit parole for 45 years.**

Senate Bill 319 would establish a process by which, in the future, a prosecutor could request that a juvenile receive LWOP based on consideration of a long list of aggravating and mitigating factors. If the defendant was sentenced to parolable life, eligibility would be at 45 years. The bill would establish a similar process for resentencing current lifers serving LWOP for offenses committed when they were juveniles, if *Miller v Alabama* is found to apply retroactively.

