

The Winding Path to Mercy & Redemption: Illinois' Parole and Clemency Process



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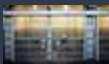
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Historical Overview



In 1895, Illinois passed its first parole law, which introduced indeterminate sentencing and gave prison wardens the power to release people on parole after serving a minimum sentence.

Historical Overview



In 1978, Illinois abolished parole, becoming one of the few states in the country to do so.

Since 1978, the Illinois prison population has increased from roughly 6,000 people to almost 30,000 people in 2023.

Inmates who were sentenced prior to the abolition of parole are still eligible for parole (commonly referred to as C#s, not many remain alive).

Historical Overview

To day, Illinois remains one of just 16 states (plus the District of Columbia) without a complete parole system.



Parole 101: So what IS parole?

- Parole allows incarcerated people to have the opportunity for release after a set period of time served in prison.
- If deemed rehabilitated by the Prisoner Review Board, individuals earn their transition to complete their sentence under community supervision



Three Current Pathways Out of Prison in Illinois

1. Parole (C# and Youthful Parole)
2. Clemency
3. Joe Coleman Medical Release

Parole 101: So what IS parole?

- Paroled individuals return home to their families and jobs while remaining under the custody of the Department of Corrections.
- People on parole have regular check-ins with a parole officer as well as rules to follow until the end of their supervision. Violating these rules can potentially send them back to prison.

Parole 101: So what IS parole?

Historically, parole was used together with indeterminate sentencing, where judges sentenced people to a range of a number of years. People became eligible for parole review when they reached the minimum term.

Parole 101: What is NOT parole?

- Mandatory Supervised Release ("MSR")
 - All individuals released from prison on a determinate (fixed) sentence must serve a period of MSR, which requires them to regularly report to a parole officer, not commit any criminal acts, not possess firearms or use drugs, and not leave the state during the limited time period. If they violate MSR, they must serve the rest of that period in prison.
- Probation
 - Probation is a sentence that is imposed for less serious crimes. Individuals on probation have to check in with probation officers and abide by restrictions similar to MSR. A violation of probation is an entirely new crime that will be prosecuted and punished, and the original probation will be terminated unsatisfactorily.

Youthful Parole Laws

Through bipartisan laws enacted in 2019 and 2023, the Illinois General Assembly created new parole opportunities for individuals who committed an offense when they were 20 years old or younger. These laws ended life without parole for all children, and most youth, in our state.

2019 Youthful Parole Law (PA 100-1182)

- Created a mid-sentence parole consideration system for people 20 or younger at the time of their conviction.
- The 2019 law did not apply to people sentenced to natural life imprisonment.
- Not retroactive

2023 Youthful Parole Law (PA 102-1128)

- Expanded eligibility to include people who were 20 years old or younger at the time of the crime
- Eliminated exception to people sentenced to natural life, making it so that no children 17 and younger can receive a life without parole sentence
- Still not retroactive

Youthful Parole Laws

Who is eligible to petition for parole under the Youthful Parole Laws?

- Anyone who was under the age of 21 at the time of the commission of their offense, and sentenced after June 1, 2019, with a few exceptions

Youthful Parole Laws

When are they eligible for parole?

First Degree Murder: A person under 21 years of age at the time of the commission of first degree murder who is sentenced or resentenced (including on remand after *Miller v. Alabama*) on or after June 1, 2019 shall be eligible for parole review after serving 20 years or more of his or her sentence or sentences.

Youthful Parole Laws

When are they eligible for parole?

Offenses Other Than First Degree Murder. A person under 21 years of age at the time of the commission of an offense or offenses, other than first degree murder, and who is not serving a sentence for first degree murder and who is sentenced on or after June 1, 2019, shall be eligible for parole review after serving 10 years or more of his or her sentence or sentences. Exceptions: those serving a sentence or sentences for: (1) aggravated criminal sexual assault, who shall be eligible for parole review after serving 20 years or more of his or her sentence or sentences; or (2) predatory criminal sexual assault of a child, who shall not be eligible for parole review.

Youthful Parole Laws

When can an individual apply for parole review?

An eligible individual can apply for parole review up to three years before their eligibility date. This means that a person serving a sentence for first degree murder or aggravated criminal sexual assault can file his or her petition for parole after serving 17 years in custody, and a person serving a sentence for an offense(s) other than first degree murder can file his or her petition for parole after serving seven years in custody.

Youthful Parole Laws

What happens after a petition for parole is filed? When is the parole hearing?

After receiving the parole petition, the Prisoner Review Board has 30 days to determine whether the petition is appropriately filed. If the Prisoner Review Board determines that the petition is not appropriately filed, it will notify the *pro se* petitioner or attorney and explain why the petition was rejected.

Youthful Parole Laws

What happens after a petition for parole is filed? When is the parole hearing?

If the petition is appropriately filed, the Prisoner Review Board will set a date for the institutional hearing, *i.e.*, the parole interview, three years from receipt of the petition. It will also notify the Department of Corrections within 10 business days. The *en banc* hearing, *i.e.*, the parole hearing, will be set one month after the institutional hearing. Upon a showing of good cause, the parole hearing can be held one year after the parole petition is filed.

Youthful Parole Laws

One year prior to the date a *pro se* petitioner is eligible for parole, counsel will be appointed by the Prisoner Review Board upon a finding of indigency. The petitioner may waive appointed counsel or retain their own counsel at their own expense.

Youthful Parole Laws

Factors considered in determining whether the petitioner should be granted parole

The Board shall not parole a person eligible for parole if it determines that:

1. There is a substantial risk that he or she will not conform to reasonable conditions of parole; or
2. His or her release at that time would depreciate the seriousness of the offense or promote disrespect for the law; or
3. His or her release would have a substantially adverse effect on institutional discipline.

Youthful Parole Laws

Factors considered in determining whether the petitioner should be granted parole

In considering the factors affecting the release determination, the Prisoner Review Board panel shall consider the diminished culpability of youthful offenders, the hallmark features of youth, and any subsequent growth and maturity of the youthful offender during incarceration.

While a petition for rehearing can be filed with the Prisoner Review Board upon denial of parole, the merits of the Board's decision to deny parole are not reviewable by courts.

Clemency

Until further changes in the law are made, anyone who committed an offense after 1978, and anyone under 21 who was sentenced before 2019, are ineligible for parole.



Those individuals may seek release by seeking clemency or filing a clemency petition asking for parole eligibility, which would allow the parole laws to apply to them.

Clemency petitions are submitted to the Prisoner Review Board, which then makes a recommendation to the Governor to grant or deny the individual's request.


Medical Release Act

(aka Joe Coleman Act)



- As of January 1, 2022, individuals in custody that are suffering from a terminal illness or medical incapacitation are allowed to file a medical release application.
- An applicant must meet the following criteria for consideration of their application:
 - is suffering from terminal illness; or
 - has been diagnosed with a condition that will result in medical incapacity within the next 6 months; or
 - has become medically incapacitated subsequent to sentencing due to illness or injury

Pending Parole Legislation



HB 2045

This bill would establish a geriatric parole system in Illinois, making people eligible for parole at age 55 or older if they have served at least 25 years of their sentence. It also makes people serving natural life sentences eligible for parole and mandatory supervised release.

SB 2120 and HB 2399

These bills would make people who are 60 or older and have served 20 consecutive years in prison or people who have served at least 25 consecutive years, eligible for parole.

SB 2073

This bill would make parole review provisions retroactive for people under 21 when they committed the offense. Those who meet the criteria could file a petition for a parole review after serving 10, 20, or 40 years of their sentence.

Basic Steps to Representing a petitioner *pro bono*

1. Set up introductory call with client – prior to call, review available documentation such as trial and sentencing record, resentencing record (if applicable), common law record (case documents), and appellate court decision(s)
1. Client call – review with client parole process, obtain contact information for support letters (family, friends, employers, teachers, clergy, etc.), discuss parole plan, ask for educational, vocational, and disciplinary history, and ask them to write personal statement for written petition
1. Draft written parole petition and file copy with PRB and also send to State's Attorney's Office where offense occurred

Basic Steps to Representing a petitioner *pro bono*

4. File appearance form with PRB
5. Prep client for institutional hearing, i.e., the parole interview – go over facts of the case, rehabilitation, remorse, transformation, and plans for release
6. Confirm parole plan and discuss with client whether they want to make a statement at the parole hearing (if juvenile)
7. Attend institutional hearing via WebEx
8. Attend *en banc* hearing in person (client will be at the prison)

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