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1 AMENDMENT TO HOUSE BILL 2399

2 AMENDMENT NO. _____. Amend House Bill 2399 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Preamble. In recognition of the historical
5 harms of systemic racism and overly punitive sentencing, as
6 well as concerns to address mass incarceration and safely
7 reduce the prison population, this Act is needed to ensure
8 that persons are not serving excessive sentences with no
9 public benefit. By utilizing and extending existing review
10 mechanisms, this Act will reduce unnecessary incarceration,
11 reduce costs of incarceration, provide incentive to people
12 with long sentences to prepare for productive lives, make
13 prisons safer for incarcerated persons and prison staff, and
14 help bring the State in compliance with Section 11 of Article I
15 of the Illinois Constitution, which mandates that all
16 penalties aim to restore incarcerated people to useful
17 citizenship.

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

4 (730 ILCS 5/3-3-3) (from Ch. 38, par. 1003-3-3)

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

6 (a) Except as otherwise provided in Section 3-3-3.1 and
7 except ~~Except~~ for those offenders who accept the fixed release
8 date established by the Prisoner Review Board under Section
9 3-3-2.1, every person serving a term of imprisonment under the
10 law in effect prior to the effective date of this amendatory
11 Act of 1977 shall be eligible for parole when he or she has
12 served:

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

16 (2) 20 years of a life sentence less time credit for
17 good behavior; or

18 (3) 20 years or one-third of a determinate sentence,
19 whichever is less, less time credit for good behavior.

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

24 (c) Except as otherwise provided in Section 3-3-3.1, and

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

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

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

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

20 (730 ILCS 5/3-3-3.1 new)

21 Sec. 3-3-3.1. Earned discretionary reentry; earned
22 discretionary reentry hearings; sentences of 20 years or
23 longer; life imprisonment; reentry.

24 (a) Notwithstanding to the contrary, any provision of this
25 Code, Article 122 of the Code of Criminal Procedure of 1963, or

1 Article X or Section 2-1401 of the Code of Civil Procedure, a
2 person serving terms of imprisonment, including terms of
3 natural life, in a Department of Corrections institution or
4 facility is eligible for earned discretionary reentry under
5 this Article if he or she has served a term of imprisonment of
6 at least 20 years. Petitions for earned discretionary reentry
7 shall be administered by the Prisoner Review Board.

8 (b) The Prisoner Review Board shall contact persons
9 eligible for earned discretionary reentry and conduct hearings
10 to determine whether they shall obtain earned discretionary
11 reentry as provided by this Article and the Open Parole
12 Hearings Act unless otherwise specified in this Section.

13 (c) For a period of 3 years following the effective date of
14 this amendatory Act of the 102nd General Assembly, candidates
15 must be 50 years of age or older and must have been
16 incarcerated for at least 20 years. After 3 years, this age
17 limitation shall not apply.

18 (d) Victims and victims' families shall be notified in a
19 timely manner and provided an opportunity to participate in
20 the hearing in accordance with the Rights of Crime Victims and
21 Witnesses Act, the Open Parole Hearings Act, and this Article.

22 (e) In determining whether a candidate should obtain
23 earned discretionary reentry, the Prisoner Review Board shall
24 consider the following factors:

25 (1) a statement, oral or written, by the candidate as
26 to the reasons why he or she should obtain earned

1 discretionary reentry;

2 (2) any of evidence of the candidate's rehabilitation
3 during the period of his or her incarceration, including
4 remorse for any criminal acts, if applicable;

5 (3) any evidence of the likelihood that the candidate
6 will not recidivate;

7 (4) any character references, letters of support from
8 family or community members, or references by staff,
9 volunteers, or incarcerated persons in the Department of
10 Corrections;

11 (5) any evidence of the candidate's participation in
12 educational, vocational, substance abuse, behavior
13 modification, life skills, or reentry planning programs;

14 (6) the candidate's disciplinary record while
15 incarcerated;

16 (7) the candidate's employment history while
17 incarcerated;

18 (8) the candidate's criminal history; and

19 (9) the candidate's parole plan, including plans for
20 housing, employment, and community support upon release
21 from incarceration; and

22 (f) If the programs or employment opportunities described
23 in this Section were not available to this candidate, the
24 Board shall not penalize the candidate for failure to
25 participate in them; nor shall the board penalize a candidate
26 for choosing not to work for the Department of Corrections;

1 nor shall the Board penalize a candidate for maintaining his
2 or her claim of innocence.

3 (g) Hearings under this Section shall be conducted by a
4 panel of at least 3 members of the Board. A majority vote of
5 the members present and voting at the hearing is required to
6 grant the petition and release the candidate.

7 (h) If earned discretionary reentry is denied under this
8 Section, the Board shall provide a written statement to the
9 candidate that shall include the reasons for the denial, what
10 the candidate must accomplish to attain earned discretionary
11 reentry in the future; and when the candidate is eligible to
12 reapply for earned discretionary reentry, which shall be no
13 later than 2 years after the denial. The candidate may seek a
14 continuance of up to 2 additional years.

15 (i) An incarcerated person described in this Section may
16 not be barred from any programming because his or her maximum
17 out date is not in the near future.

18 (j) Every incarcerated person described in this Section
19 may bring legal counsel or an advocate of his or her choice to
20 the earned discretionary reentry hearing.

21 (k) Every incarcerated person described in this Section
22 may attend and testify at his or her earned discretionary
23 reentry hearing in person or by video-conference or may have
24 counsel or an advocate read a statement.

25 (l) Every incarcerated person described in this Section
26 shall be provided full and complete access to his or her master

1 record file, with the exception of the names of verified
2 confidential informants, at least 60 days prior to any earned
3 discretionary reentry hearing. The incarcerated person has a
4 right to challenge any false, misleading, or otherwise
5 inaccurate information contained therein. The Department of
6 Corrections shall establish an expedited process for
7 incarcerated persons to challenge such false, misleading, or
8 otherwise inaccurate information so that it can be removed
9 prior to any earned discretionary reentry hearing. Every
10 incarcerated person described in this section may have counsel
11 assist them in challenging inaccurate information.

12 (m) If any incarcerated person is released on earned
13 discretionary reentry, his or her sentence shall be considered
14 complete after the term of mandatory supervised release.

15 (n) This Section applies retroactively to every person
16 currently serving a term of imprisonment in a Department of
17 Corrections institution or facility, which is necessary in
18 order to serve the important objectives listed in the
19 preamble, including that of restoring incarcerated individuals
20 to useful citizenship, as required by Section 11 of Article 1
21 of the Illinois Constitution.

22 (o) Nothing in this Section guarantees release. It only
23 provides the opportunity for the incarcerated person to
24 demonstrate his or her readiness to obtain earned
25 discretionary reentry.

1 (730 ILCS 5/3-5-1) (from Ch. 38, par. 1003-5-1)

2 Sec. 3-5-1. Master Record File.

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

7 (1) all information from the committing court;

8 (1.5) ethnic and racial background data collected in
9 accordance with Section 4.5 of the Criminal Identification
10 Act;

11 (2) reception summary;

12 (3) evaluation and assignment reports and
13 recommendations;

14 (4) reports as to program assignment and progress;

15 (5) reports of disciplinary infractions and
16 disposition, including tickets and Administrative Review
17 Board action;

18 (6) any parole or aftercare release plan;

19 (7) any parole or aftercare release reports;

20 (8) the date and circumstances of final discharge;

21 (9) criminal history;

22 (10) current and past gang affiliations and ranks;

23 (11) information regarding associations and family
24 relationships;

25 (12) any grievances filed and responses to those
26 grievances; and

1 (13) other information that the respective Department
2 determines is relevant to the secure confinement and
3 rehabilitation of the committed person.

4 (b) Except as otherwise provided in Section 3-3-3.1, all
5 ~~All~~ files shall be confidential and access shall be limited to
6 authorized personnel of the respective Department. Personnel
7 of other correctional, welfare or law enforcement agencies may
8 have access to files under rules and regulations of the
9 respective Department. The respective Department shall keep a
10 record of all outside personnel who have access to files, the
11 files reviewed, any file material copied, and the purpose of
12 access. If the respective Department or the Prisoner Review
13 Board makes a determination under this Code which affects the
14 length of the period of confinement or commitment, the
15 committed person and his counsel shall be advised of factual
16 information relied upon by the respective Department or Board
17 to make the determination, provided that the Department or
18 Board shall not be required to advise a person committed to the
19 Department of Juvenile Justice any such information which in
20 the opinion of the Department of Juvenile Justice or Board
21 would be detrimental to his treatment or rehabilitation.

22 (c) The master file shall be maintained at a place
23 convenient to its use by personnel of the respective
24 Department in charge of the person. When custody of a person is
25 transferred from the Department to another department or
26 agency, a summary of the file shall be forwarded to the

1 receiving agency with such other information required by law
2 or requested by the agency under rules and regulations of the
3 respective Department.

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

8 (e) All public agencies may make available to the
9 respective Department on request any factual data not
10 otherwise privileged as a matter of law in their possession in
11 respect to individuals committed to the respective Department.
12 (Source: P.A. 97-696, eff. 6-22-12; 98-528, eff. 1-1-15;
13 98-558, eff. 1-1-14; 98-756, eff. 7-16-14.)

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

16 Section 99. Effective date. This Act takes effect upon
17 becoming law."