

HB 3541 -- ELIGIBILITY FOR PAROLE

SPONSOR: Collins

Currently, any offender incarcerated in a correctional institution serving any sentence of life with no parole for 50 years or life without parole whose plea of guilt was entered or whose trial commenced prior to December 31, 1990 and who:

(1) Pleaded guilty or was found guilty of homicide of a spouse or domestic partner;

(2) Has no prior violent felony convictions;

(3) No longer has a cognizable legal claim or legal recourse; and

(4) Has a history of being a victim of continual and substantial physical or sexual domestic violence that was not presented as an affirmative defense at trial or sentencing, and such history can be corroborated with evidence of facts or circumstances which existed at the time of the alleged violence;

Is eligible for parole after having served 15 years when the Parole Board determines by specified standards that there is a strong and reasonable probability that the person will not thereafter violate the law.

This bill modifies the latest eligible date for entry of a plea of guilt or commencement of trial from 1990 to 2000.

The bill expands this parole procedure to include offenders who have a history of being a victim of psychological domestic violence or sexual or labor trafficking, eliminates the requirement that the offender's history of being a victim of physical, psychological, or sexual domestic violence was not presented as an affirmative defense at trial or sentencing, and requires that the domestic violence or trafficking suffered by the offender occurred within five years prior to or on the date of the offense for which he or she was convicted and such violence or trafficking was a contributing factor to the behavior underlying his or her criminal conviction.

This bill reduces the required time served by an offender before they are eligible for parole under this section from 15 to five years. If the Parole Board denies parole, the offender may reapply under this procedure once every two years.

The bill provides that the Parole Board will no longer be required to consider why the offender rejected or accepted an offer of a plea bargain or the offender's continued claim of innocence. It must not be considered a negative factor for determining parole eligibility if an offender was unable to participate in treatment or other programming while incarcerated despite the willingness of the offender to participate in such treatment or programming.

This bill provides that there must be a presumption in favor of granting a hearing on a petition filed under this procedure. A hearing for such an offender can only be denied if the Parole Board determines that there is an inherent lack of reliability of the facts asserted in the petition or a deficiency in the factual allegations in the petition. If the Parole Board determines that the offender is not entitled to a hearing, the Board must provide written findings of fact outlining the reasons for such decision.

The bill repeals the provision that specifies that a person commits the crime of perjury if he or she, with the purpose to deceive, knowingly makes a false witness statement to the Parole Board.