

Dear Members of the Senate Judiciary Committee:

I am writing to strongly oppose the Sentencing Reconsideration Act (S2731).

This bill is unnecessary because it duplicates procedures already in place for inmates to gain early release and it is harmful to crime victims. Criminals are not locked up with no recourse for early release, which unfortunately is often portrayed as the case. The parole process and the existence of post-conviction relief are already in place for all of the reasons given for the purpose of this bill. This bill is asking the courts to duplicate what is already the role of the parole board and what is already available through post-conviction relief. The grounds for sentence reconsideration listed in this bill (rehabilitative efforts and compassionate considerations) mimic what is grounds for parole consideration as listed in the parole board guidelines, which are attached.

At their parole hearings, inmates have the opportunity to show documented evidence of their rehabilitative efforts and can provide written support from prison staff, community members, and program providers; all the things this bill asks the court to review. In fact, as noted in their guidelines, the parole board even has tools to assess the risk of an inmate to re-offend that the court may not have: an ability to order psych evaluations, a parole risk instrument and LSIR Case management and assessments that measures the risk and need factors of offenders. Inmates are also eligible for geriatric and/or medical parole which fulfills the compassionate considerations mentioned in this bill.

Inmates, other than those serving life sentences and some mandatory sentences of incarceration, are eligible to see the parole board after serving 1/3 of their sentence or 10 years, whichever comes first. The parole board guidelines state reconsideration hearings will be granted no longer than 6-years and youthful offenders no longer than 3-years. Clearly the parole board is the entity for this job and involving the courts undermines the purpose of the parole board and duplicates their efforts.

As for the other grounds for sentence reconsideration listed in the bill: changes in law and sentencing disparities, RI general law R.I. Gen. Laws § 10-9.1-1 (also attached) covers these factors, along with any new evidence coming to light in a case.

Interestingly, this bill does not exclude those serving life sentences. They too would be able to petition the court for a sentence review after serving only 10-years. Currently their only hope for an early release outside of post-conviction relief, is when seeing parole after serving 25-years. The longer time allowed for parole eligibility for lifers reflects the seriousness of their crime. This bill would essentially undermine the law governing parole eligibility for lifers, giving those offenders the possibility of an early release equal to those not serving life sentences.

In addition, this bill places a financial burden on law-abiding citizens because these extra hearings will be costly as will the court-appointed attorneys needed to represent indigent inmates. Tax-payers have already paid enough for the actions of criminals, there is no need for us to be burdened more.

Lastly and most importantly, not only is this bill unnecessary and duplicates what is already in place for inmates looking for early release (parole and post-conviction relief), It is insulting and harmful to crime victims who would be forced to endure more court proceedings if they want to voice their opposition to their perpetrator's early release. Victims didn't ask to be involved in the criminal justice system. They were thrust into it because criminals put them there. They have been victimized enough by enduring the trauma of crime, the exhausting court process including trial, sentencing and appeals, and having to plead with the parole board to deny parole. This would be an additional layer of trauma for them.

This bill does not benefit crime victims, nor does it benefit law-abiding citizens. It benefits inmates only, inmates whose actions earned them criminal sentences and who already have access to post-conviction relief and parole eligibility for the possibility of early release. If anything, this bill is a tool for inmates, particularly those serving life sentences, to circumvent the established system at the expense of tax-payers and crime victims.

I urge you to oppose passage of this bill.

Thank you,

Nicole Kettelle

Title 10

Courts and Civil Procedure — Procedure in Particular Actions

Chapter 9.1

Post Conviction Remedy

R.I. Gen. Laws § 10-9.1-1

§ 10-9.1-1. Remedy — To whom available — Conditions.

(a) Any person who has been convicted of, or sentenced for, a crime, a violation of law, or a violation of probationary or deferred sentence status and who claims:

(1) That the conviction or the sentence was in violation of the constitution of the United States or the constitution or laws of this state;

(2) That the court was without jurisdiction to impose sentence;

(3) That the sentence exceeds the maximum authorized by law, or is otherwise not in accordance with the sentence authorized by law;

(4) That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

(5) That his or her sentence has expired, his or her probation, parole, or conditional release unlawfully revoked, or he or she is otherwise unlawfully held in custody or other restraint;
or

(6) That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ,

motion, petition, proceeding, or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief.

(b) This remedy is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise provided in this chapter, it comprehends and takes the place of all other common law, statutory, or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.

History of Section.

P.L. 1974, ch. 220, § 3.