Rule Text

Subdivision (c) of section 8002.2 of Title 9 N.Y.C.R.R is repealed and a new subdivision (c) is added to read as follows:

Minor Offenders. When making parole release determinations pursuant to section 259-i(2)(c)(A) of the Executive Law for any individual who is a minor offender as defined in section 8002.8(a)(1) of this Part, the board shall also apply the consideration and special procedure described in section 8002.8 of this Part.

A new section 8002.8 of Title 9 N.Y.C.R.R is added to read as follows:

Section 8002.8 Minor Offenders.

(a) Minor Offender Principles.

(1) For the purposes of this Part, the term "minor offender" means an individual serving a maximum sentence of life for a crime committed prior to attaining 18 years of age.

(2) In recognition of the distinctive attributes of childhood and heightened capacity for change, the board shall place great weight on the minor offender characteristics when making parole release decisions pursuant to the applicable statute.

(3) Giving great weight to the "minor offender characteristics" means to meaningfully consider the minor offender characteristics in evaluating each applicable factor in the parole decision, including how an individual's youth impacted the commitment offense, prior conflicts with the law, and institutional behavior, along with subsequent rehabilitation, and meaningfully weigh applicable minor offender characteristics in favor of release when determining whether the standard for release is satisfied.

(4) Nothing in this Part, including the phrase "shall place great weight on minor offender characteristics," shall be construed to create a presumption that the parole candidate is entitled to release simply because they were a minor at the time of the incident offense or to preclude the board from concluding that, after balancing the factors, as properly evaluated with due consideration of the minor offender characteristics, the minor offender does not satisfy the release standard.

(b) Minor Offender Consideration. The Board of Parole has the discretion to determine whether a parole applicant meets the applicable statutory standard for release after giving great weight to the minor offender characteristics.

(1) The "minor offender characteristics" are (i) the diminished culpability of youths as compared to adults; (ii) the hallmark features of youth; and (iii) any subsequent growth and increased maturity of the individual.

(2) Information presented that the hallmark features of youth were causative of, or contributing factors to, behavior generally should be considered to demonstrate diminished culpability and should not, in and of itself, be construed to demonstrate lack of insight or minimization of the minor offender's role.

(3) Information presented regarding unstable relationships as a juvenile that are attributable to transient immaturity does not tend to show unsuitability for release where subsequent growth and maturity has addressed the behavioral issues.

(c) Minor Offender Characteristics.

(1) Diminished Culpability of Youths as Compared to Adults. The board's consideration of the diminished culpability of youths as compared to adults includes, but is not limited to, the following where appropriate:

(i) the ongoing development in a youth's psychology and brain function;

(ii) the impact of a youth's negative, abusive, or neglectful environment or circumstances;

(iii) a youth's limited control over their own environment;

(iv) the limited capacity of youths to extricate themselves from dysfunctional or crime-producing environments; and

(v) a youth's diminished susceptibility to deterrence.

(2) Hallmark Features of Youth. The Board's consideration of the hallmark features of youth includes, but is not limited to, the following where appropriate:

(i) immaturity;

(ii) an underdeveloped sense of responsibility;

(iii) impulsivity or impetuosity;

(iv) difficulty changing course or considering alternative courses of action;

(v) difficulty with future planning;

(vi) increased vulnerability or susceptibility to negative influences and outside pressures, particularly from family members or peers;

(vii) recklessness or heedless risk-taking;

(viii) limited ability to assess or appreciate the risks and consequences of behavior; and

(ix) transient characteristics and heightened capacity for change.

(3) Subsequent Growth and Increased Maturity of the Individual While Incarcerated. The board's consideration of the subsequent growth and increased maturity of the individual while incarcerated includes, but is not limited to, the following where appropriate:

(i) considered reflection, remorse, and insight into criminal conduct;

(ii) maturity of judgment including, but not limited to, improved impulse control, the development of pro-social relationships, or independence from negative influences;

(iii) self-recognition of human worth and potential;

(iv) service to and contributions to the welfare of other persons;

(v) participation and accomplishments in rehabilitation services in the correctional system, including, but not limited to, mental health services, counseling, educational programs, and vocational training;

(vi) positive institutional conduct; and

(vii) other evidence of rehabilitation.

(d) Special Minor Offender Procedure.

Pre-Interview. Prior to the conduct of any interview of a minor offender provided for in section 8002.1 of this Part, the board shall review the Minor Offender Pre-Board Appearance Interview Form, when that form becomes available, as well as any personal statement, letters of support and commendable behavior reports submitted by the minor offender.

The board shall also complete the structured decision making form, when such form is available, prior to writing a parole decision for all Minor Offender interviews.