

## **BILL ANALYSIS**

Senate Research Center

H.B. 431  
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Criminal Justice  
5/13/2013  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, the Texas Board of Pardons and Paroles (BBP) has the discretion not to consider offenders convicted of first degree felony injury to a child for parole for up to five years after incarceration. This is commonly known as a "set-back period."

However, in second and third degree felony injury to a child cases BBP does not have the same discretion to look at the facts of the case and judge whether an offender should have his or her parole eligibility reassessed each year.

When an offender comes up for parole review, victims and their families are often an integral part of the decision-making process. Subjecting victims to an annual review, particularly in cases involving the death of or injury to a child, forces them to relive traumatic and painful experiences needlessly.

H.B. 431 grants BBP the discretion not to consider an inmate convicted of second or third degree felony injury to a child for parole for up to five years after incarceration.

It allows BBP to consider the risk to the public, the severity of the crimes committed, and the progress made in rehabilitation programs by the inmate when determining whether the inmate should receive his or her first parole hearing.

In more serious cases in which BBP decides to delay the first parole hearing two, three, four, or five years, the families of the victims would have more time to grieve and heal before enduring the parole review process.

H.B. 431 amends current law relating to the eligibility of certain inmates convicted of injury to a child for release to mandatory supervision and to reconsideration of parole eligibility for those inmates.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Authorizes this Act to be cited as Emma's Law.

SECTION 2. Reenacts Section 508.149(a), Government Code, as amended by Chapter 1 (S.B. 24) and 122 (H.B. 3000), Acts of the 82nd Legislature, Regular Session, 2011, and amends it to prohibit an inmate from being released to mandatory supervision if the inmate is serving a sentence for or has been previously convicted of a second degree felony or a third degree felony under Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual), Penal Code, if the victim of the offense is a child.

SECTION 3. Provides that the change in law made by this Act in amending Section 508.149(a), Government Code, applies only to the release to mandatory supervision of an inmate serving a sentence for an offense committed on or after the effective date of this Act. Provides that the

release of an inmate serving a sentence for an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. Provides that, notwithstanding Section 3 of this Act, the change in law made by this Act in amending Section 508.149(a), Government Code, applies on or after the effective date of this Act to the policy adopted by the Board of Pardons and Paroles (BPP) under Section 508.141(g) (relating to requiring BPP to adopt a policy establishing the date on which BPP is authorized to reconsider for release an inmate who has previously been denied release), Government Code, concerning the time by which BPP is required to reconsider for release on parole an inmate serving a sentence for an offense listed in Section 508.149(a), Government Code, regardless of whether the inmate is serving a sentence for an offense committed before, on, or after the effective date of this Act.

SECTION 5. Provides that, to the extent of any conflict, this Act prevails over another Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 6. Effective date: upon passage or September 1, 2013.