

State of North Carolina

ROY COOPER
GOVERNOR

April 8, 2021

EXECUTIVE ORDER NO. 208

ESTABLISHING THE JUVENILE SENTENCE REVIEW BOARD

WHEREAS, Article III, Sections 1 and 5(6) of the North Carolina Constitution vests the power to grant reprieves, commutations, and pardons, after convictions, for all offenses (except in cases of impeachment), in the Governor, upon such conditions as he thinks proper, and subject to regulations prescribed by law relative to the manner of applying for pardons; and

WHEREAS, the North Carolina Constitution vests the authority to make such clemency determinations exclusively in the Governor; and

WHEREAS, the Governor may make clemency determinations in his sole discretion; and

WHEREAS, nothing in this Executive Order shall restrict or infringe upon the Governor's powers under the North Carolina Constitution to grant reprieves, commutations, and pardons, after conviction, for all offenses, upon such conditions as he may think proper; and

WHEREAS, developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds, specifically that juveniles have less control over themselves and their environments when compared to adults; and

WHEREAS, these psychological and neurological differences make juveniles less culpable for their conduct and more likely candidates for reform; and

WHEREAS, under the United States and North Carolina Constitutions, children are therefore treated differently from adults for purposes of sentencing; and

WHEREAS, the North Carolina General Assembly enacted the Juvenile Justice Reinvestment Act, ch. 57, sec. 16D.4.(a)-(tt), 2017 N.C. Sess. Law. 309-325, which raised the age of juvenile jurisdiction to eighteen (18), becoming the last state in the nation to no longer prosecute all sixteen (16)- and seventeen (17)-year-olds as adults; and

WHEREAS, data shows that over eighty (80) percent of the people committed to North Carolina prisons for crimes they committed as juveniles are people of color; and

WHEREAS, there is a long history of structural inequity and racism in the criminal justice system; and

WHEREAS, communities of color are disproportionately affected throughout the criminal justice system, with data showing that people of color make up nearly sixty (60) percent of the population of North Carolina's prisons; and

WHEREAS, a fair and equitable criminal justice system, free from racism and bias, is necessary to maintain the safety and well-being of the State of North Carolina; and

WHEREAS, a review mechanism for juvenile sentences will advance North Carolina's commitment to improve the administration of justice in this state and eliminate racial inequities in the criminal justice system.

NOW, THEREFORE, by the authority vested in the undersigned as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Juvenile Sentence Review Board.

A. Scope of Order.

This Executive Order establishes a mechanism to review sentences of imprisonment imposed in North Carolina on individuals who were tried and sentenced in adult criminal court for acts committed when under the age of eighteen (18) and who meet certain qualifying conditions set forth in Section 2 of this Executive Order (hereinafter, "juveniles").

B. Establishment and Purpose.

The North Carolina Juvenile Sentence Review Board ("Review Board") is hereby established as an advisory board. The mission of the Review Board is to review sentences imposed on juveniles in North Carolina and make recommendations to the Governor concerning clemency and commutation of such sentences when appropriate. In so doing, the Review Board will assist the Governor in fulfilling his constitutional duty to grant commutations or clemency upon such conditions as he deems proper, seek to eliminate disparate outcomes in the criminal justice system, and improve the administration of justice.

C. Duties.

This Review Board's mandate is to promote sentencing outcomes that consider the fundamental differences between juveniles and adults and address the structural impact of racial bias while maintaining public safety. The Review Board shall, for each petition under consideration pursuant to Section 2 below, determine whether to recommend commutation or clemency to the Governor. The Governor may act in accordance with the Review Board's recommendation but is not obligated to do so. The Review Board is expected to consult with local, state, and national criminal justice and racial justice experts and people with experiences relevant to the Review Board's mandate.

D. Membership.

The Review Board shall be comprised of four members, including a chair. All members shall be appointed by the Governor and shall serve at the Governor's pleasure. The Governor shall select the chair to lead the Review Board.

E. Administrative.

The Review Board shall serve without compensation but may receive per diem allowance and reimbursement for travel and subsistence expenses in accordance with state law and Office of State Budget and Management policies and regulations.

The Review Board is authorized to conduct its meetings in confidential sessions.

Section 2. Procedures for Review of Juvenile Sentences.

Any person held in the custody of the North Carolina Department of Public Safety ("DPS") for a crime they committed prior to the age of eighteen (18) may, on the person's own behalf or through counsel, petition the Review Board for review of their sentences upon the completion of the shorter of:

1. Twenty (20) years served on an active sentence; or
2. In the event of multiple or "stacked" sentences, the minimum term required by law of the longest sentence imposed, provided the juvenile has served at least fifteen (15) years active sentence.

The Review Board is directed to develop a standard petition form to be used by petitioners for these matters. Petitions shall be considered on a quarterly basis.

For each petition received, the Review Board shall determine whether to recommend commutation or clemency to the Governor. In making this determination, the Review Board shall consider:

1. The petition;
2. The petitioner's prison record;
3. Factors suggesting developmental immaturity in the commission of the crime, such as whether there was an adult co-defendant, whether the offense was committed with one or more accomplices, or other circumstances of the offense;
4. The petitioner's mental health at the time of the crime;
5. The input from the victim or members of the victim's immediate family;
6. The degree of risk the petitioner poses to society;
7. Rehabilitation and maturity demonstrated by the petitioner;
8. Whether the petitioner's race unduly influenced the trial or sentencing; and
9. Any other information the Review Board deems appropriate.

DPS and the Post-Release Supervision and Parole Commission shall provide records requested by the Review Board within thirty (30) days of such request. Consistent with the North Carolina Reentry Action Plan, DPS shall provide specialized reentry planning to individuals released following recommendation by the Review Board.

Section 3. Preservation of Governor's Clemency Powers.

Nothing in this Executive Order shall be construed to limit or infringe upon the Governor's authority under the North Carolina Constitution to grant reprieves, commutations, and pardons, after conviction, for all offenses, upon such conditions as he may think proper.

Section 4. Effective Date.

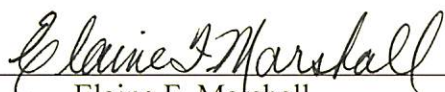
This Executive Order is effective immediately and shall remain in effect until December 31, 2024, unless repealed, replaced, or rescinded by another applicable Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 8th day of April in the year of our Lord two thousand and twenty-one.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

