

Opinions of the Colorado Supreme Court are available to the public and can be accessed through the Judicial Branch's homepage at <http://www.courts.state.co.us>. Opinions are also posted on the Colorado Bar Association's homepage at <http://www.cobar.org>.

ADVANCE SHEET HEADNOTE  
March 11, 2024

2024 CO 14

**No. 23SA277, *Godinez v. Williams*—Colorado's Sex Offender Lifetime Supervision Act parole provisions as applied to Juvenile Sex Offenders—*Graham v. Florida*, 560 U.S. 48, 75 (2010), parole requirements for nonhomicide juvenile offenders.**

In this case, the supreme court considers the following certified question of law from the Tenth Circuit Court of Appeals:

Whether [Colorado's Sex Offender Lifetime Supervision Act ("SOLSA"), §§ 18-1.3-1001 to -1012, C.R.S. (2023),] requires, permits, or prohibits parole boards from considering maturity and rehabilitation.

The court now concludes that SOLSA (1) permits consideration of maturity and (2) requires consideration of rehabilitation.

**The Supreme Court of the State of Colorado**  
2 East 14th Avenue • Denver, Colorado 80203

---

**2024 CO 14**

---

**Supreme Court Case No. 23SA277**

*Certification of Question of Law*

United States Court of Appeals for the Tenth Circuit Case No. 22-1194

---

**Petitioner-Appellant:**

Omar Ricardo Godinez,

v.

**Respondents-Appellees:**

Dean Williams, Executive Director, Colorado Department of Corrections; Terry Jaques, Warden, Limon Correctional Facility; and Philip Weiser, Attorney General, State of Colorado.

---

**Question Answered**

*en banc*

March 11, 2024

---

**Attorneys for Petitioner-Appellant:**

Reppucci Law Firm, P.C.

Jonathan D. Reppucci

*Denver, Colorado*

**Attorneys for Respondents-Appellees:**

Philip J. Weiser, Attorney General

John T. Lee, First Assistant Attorney General

*Denver, Colorado*

**JUSTICE GABRIEL** delivered the Opinion of the Court, in which **CHIEF JUSTICE BOATRIGHT, JUSTICE MÁRQUEZ, JUSTICE HOOD, JUSTICE HART, JUSTICE SAMOUR,** and **JUSTICE BERKENKOTTER** joined.

JUSTICE GABRIEL delivered the Opinion of the Court.

¶1 This case requires us to answer the following certified question of law from the Tenth Circuit Court of Appeals:

Whether [Colorado’s Sex Offender Lifetime Supervision Act (“SOLSA”), §§ 18-1.3-1001 to -1012, C.R.S. (2023),] requires, permits, or prohibits parole boards from considering maturity and rehabilitation.

¶2 We now conclude that SOLSA (1) permits consideration of maturity and (2) requires consideration of rehabilitation.

### **I. Facts and Procedural History**

¶3 In 2011, when Omar Ricardo Godinez was fifteen years old, he and three others kidnapped and raped two women within a week of each other. In both instances, one of the perpetrators approached the victim from behind, forced her into a car at gunpoint, and drove her to Godinez’s house. The perpetrators then took turns sexually assaulting the victim before releasing her at or near the abduction site, threatening to harm her if she reported the incident.

¶4 Both victims reported the sexual assault to law enforcement, and the second victim provided the police with detailed information about the car that Godinez and his accomplices had used to kidnap her. With that information, the police traced the car and learned that it belonged to Godinez’s stepmother and was registered at an address in Aurora. After confirming that the house at that address matched the victims’ description of the house to which they had been taken, the

police obtained a warrant and searched the car and the house, finding in the car an earring belonging to one of the victims. The police subsequently arrested Godinez.

¶5 Thereafter, the People charged Godinez as an adult with two counts of second-degree kidnapping, two counts of sexual assault, two counts of conspiracy to commit sexual assault, and two counts of conspiracy to commit second-degree kidnapping. The case proceeded to trial, and the jury ultimately convicted Godinez as charged.

¶6 Prior to sentencing, Godinez filed a motion and supplements thereto challenging the constitutionality of his potential sentence under SOLSA. In this motion, he argued, as pertinent here, that SOLSA's sentencing and parole scheme violates the Eighth Amendment as applied to him because (1) it does not consider his youthfulness, as required by *Graham v. Florida*, 560 U.S. 48, 75 (2010); (2) SOLSA was written for adult, not juvenile, sex offenders; and (3) SOLSA does not provide the realistic opportunity for parole that *Graham* requires for juveniles convicted of non-homicide offenses and therefore results in what amounts to a life sentence for virtually all juvenile sex offenders.

¶7 The trial court subsequently conducted a hearing on Godinez's motion. At that hearing, Godinez further explained that SOLSA is unconstitutional because it does not provide him with a meaningful opportunity for parole based on his

behavior, success in treatment, and proven maturity, as required by *Graham*. Rather, SOLSA requires that the parole board consider three, and only three, factors, none of which included the *Graham* factors. The court took the matter under advisement.

¶8 The case proceeded to sentencing. At the sentencing hearing, Godinez reiterated his position that SOLSA was unconstitutional because *Graham* requires a meaningful opportunity for parole or release based on demonstrated maturity and rehabilitation and even if Godinez demonstrated those things, he might still never be eligible for parole because that determination rests within the parole board's discretion.

¶9 After considering the parties' arguments, the trial court sentenced Godinez to consecutive and concurrent terms, comprising an aggregate, indeterminate sentence of thirty-two years to life in prison. The court followed up its sentencing determination with a lengthy, written ruling denying Godinez's motion challenging the sentence's constitutionality. In this ruling, the court concluded that although SOLSA mandates that the parole board consider the three factors specified in the statute, the statute does not restrict the parole board from evaluating additional factors. The court further found that because SOLSA incorporates Colorado's general sentencing and parole provisions, the parole board may consider any of the factors set forth in the guidelines promulgated by

the executive director of the Department of Corrections and any evidence-based practices that apply to all parole candidates under the general parole provisions.

The court thus opined:

[T]he Parole Board is not restricted in its ability to consider the *Graham* factors under its guidelines or under evidence-based factors, and given the Supreme Court's mandate in *Graham* that such factors *must* be considered for a juvenile convicted of a sexual offense, the Court must presume that the Parole Board will comply with the Supreme Court's directive.

*People v. Godinez*, No. 11CR2537, at \*18 (Dist. Ct., Arapahoe Cnty., Mar. 21, 2014).

¶10 Godinez appealed, arguing, as pertinent here, that his mandatory minimum, indeterminate sentence of thirty-two years to life (1) failed to take into account the differences between adult and juvenile offenders; (2) denied him any realistic or meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation, as required by law; and (3) amounted to a life sentence without the possibility of parole. A division of the court of appeals ultimately affirmed Godinez's sentence, however, concluding that the sentence was constitutional under this court's precedent rejecting the view that a long-term aggregate sentence is the functional equivalent of a life without parole sentence.

*People v. Godinez*, 2018 COA 170M, ¶¶ 96–101, 457 P.3d 77, 95.

¶11 Godinez petitioned this court for certiorari review, but we denied his petition, with two justices indicating that they would have granted the petition in part.

¶12 Having exhausted all of his state remedies, Godinez then sought habeas relief in federal court. As he had argued in the state courts, Godinez contended that, as applied to him, Colorado’s statutory scheme governing the sentencing of juvenile sex offenders as adults denies him a meaningful opportunity for release based on demonstrated maturity and rehabilitation and therefore violates the Eighth Amendment.

¶13 The United States District Court for the District of Colorado denied Godinez’s petition for habeas relief, concluding, in pertinent part, that it was “bound by the state court’s conclusion that the parole board can and will consider a juvenile offender’s maturity and rehabilitation when considering if the inmate should be paroled.” *Godinez v. Williams*, No. 21-cv-00695-RBJ, 2022 WL 1642497, at \*15 (D. Colo. May 24, 2022). The federal district court, however, issued Godinez a certificate of appealability, recognizing that he had made a substantial showing of the denial of a constitutional right. *Id.* at \*17–18. Godinez then appealed to the Tenth Circuit.

¶14 On appeal, Godinez raised one issue: “Whether Colorado’s mandatory indeterminate sentencing scheme as written and applied to [Godinez]—a fifteen-year-old, non-homicide offender subjected to direct filing—results in a cruel and unusual sentence that violates the Eighth Amendment under *Graham*.” Recognizing that the outcome of Godinez’s appeal turns on the interpretation of



SOLSA’s parole provisions, the Tenth Circuit certified the following question to this court: “[W]hether SOLSA requires, permits, or prohibits parole boards from considering maturity and rehabilitation.” *Godinez v. Williams*, No. 22-1194, 2023 WL 6970122, at \*2 (10th Cir. Oct. 20, 2023).

¶15 We accepted review of the certified question.

## **II. Analysis**

¶16 We begin by addressing our jurisdiction under C.A.R. 21.1, the applicable standard of review, and general statutory interpretation principles. We then discuss the Eighth Amendment and the principles set forth in *Graham* that underlie the issue before us. We end by applying the foregoing principles of law to answer the Tenth Circuit’s certified question.

### **A. Jurisdiction and Applicable Legal Standards**

¶17 Under C.A.R. 21.1(a), we may answer questions of law certified to us by a federal court if the proceeding before that court involves questions of Colorado law that “may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court that there is no controlling precedent in the decisions of the supreme court.” The decision whether to accept such certified questions rests within our sound discretion. *See In re Phillips*, 139 P.3d 639, 643 (Colo. 2006).

¶18 Here, the certified question from the Tenth Circuit involves a matter of first impression under Colorado law, and it appears that this court’s interpretation of SOLSA in response to the certified question may be determinative of Godinez’s habeas petition. Accordingly, we accepted jurisdiction over the certified question.

¶19 The certified question before us raises an issue of statutory interpretation, which we review de novo. *McCoy v. People*, 2019 CO 44, ¶ 37, 442 P.3d 379, 389.

¶20 Our primary purpose in construing a statute is to ascertain and effectuate the legislature’s intent. *Id.* To do this, we look first to the statutory text, giving its words and phrases their plain and ordinary meanings. *Id.* We read these words and phrases in context, and we construe them in accordance with the rules of grammar and common usage. *Id.* In addition, we endeavor to effectuate the purpose of the legislative scheme. *Id.* at ¶ 38, 442 P.3d at 389. “In doing so, we read that scheme as a whole, giving consistent, harmonious, and sensible effect to all of its parts, and we must avoid constructions that would render any words or phrases superfluous or lead to illogical or absurd results.” *Id.* If the statute is unambiguous, then we need not look further. *Id.* If the statute is ambiguous, however, then we may look to “other aids to statutory construction, including the consequences of a given construction, the end to be achieved by the statute, and the statute’s legislative history.” *Id.* “A statute is ambiguous when it is reasonably susceptible of multiple interpretations.” *Id.*

## B. The Eighth Amendment and *Graham*

¶21 The Eighth Amendment prohibits cruel and unusual punishments. U.S. Const. amend. VIII.

¶22 In *Graham*, 560 U.S. at 52–53, the Supreme Court considered whether the Eighth Amendment permits a juvenile offender to be sentenced to life in prison without parole for a non-homicide crime. In that case, Graham was convicted of armed burglary and attempted armed robbery, and he was sentenced to a controlling term of life imprisonment. *Id.* at 57. Because Florida had abolished its parole system, the sentence did not provide Graham with a possibility of release unless he was granted executive clemency. *Id.* In light of the foregoing, Graham challenged his sentence under the Eighth Amendment, and the case ultimately reached the Supreme Court, which held that the Eighth Amendment forbids a sentence of life without parole for a juvenile offender who did not commit homicide. *Id.* at 58, 74. In so ruling, the Court observed, “A State is not required to guarantee eventual freedom to a juvenile offender convicted of a nonhomicide crime. What the State must do, however, is give defendants like Graham some meaningful opportunity to obtain release based on *demonstrated maturity* and *rehabilitation*.” *Id.* at 75 (emphases added).

¶23 With these principles in mind, we turn to the certified question before us.

### C. Consideration of Maturity and Rehabilitation under SOLSA

¶24 SOLSA requires courts to sentence convicted sex offenders to an indeterminate term of at least the minimum of the statutorily prescribed presumptive range for the level of offense committed and a maximum of the sex offender's natural life. *See* § 18-1.3-1004(1)(a), C.R.S. (2023); *accord Vensor v. People*, 151 P.3d 1274, 1276 (Colo. 2007). To the extent deemed appropriate by another statutory provision, SOLSA also requires sex offenders to undergo treatment as part of their sentences. § 18-1.3-1004(3). And a convicted sex offender is eligible for parole only after the offender has completed the minimum period of incarceration specified in the indeterminate sentence, less any earned time credit. § 18-1.3-1006(1)(a), C.R.S. (2023).

¶25 The decision as to whether to grant parole to a sex offender remains “within the sound discretion of the state parole board.” *People v. Oglethorpe*, 87 P.3d 129, 136 (Colo. App. 2003). SOLSA does, however, provide some guidance to the board:

In determining whether to release the sex offender on parole, the parole board *shall* determine whether the sex offender has successfully progressed in treatment and would not pose an undue threat to the community if released under appropriate treatment and monitoring requirements and whether there is a strong and reasonable probability that the person will not thereafter violate the law.

§ 18-1.3-1006(1)(a) (emphasis added).

¶26 Godinez argues that, in contravention of the Supreme Court’s pronouncement in *Graham*, SOLSA prohibits parole boards from considering demonstrated maturity and rehabilitation when determining whether to grant parole to a juvenile sex offender. Godinez appears to base this view on the General Assembly’s above-quoted use of the word “shall.” *Id.* Specifically, he reads the statute to mandate that the parole board consider three, and only three, factors, namely, (1) the sex offender’s successful progress in treatment; (2) the risk that the offender poses to the community if released under appropriate treatment and monitoring requirements; and (3) the probability that the offender will not thereafter violate the law. The parties agree that the statute does not expressly refer to either maturity or rehabilitation, and Godinez contends that this omission means that consideration of those factors is prohibited under SOLSA.

¶27 The People do not directly address Godinez’s argument that SOLSA’s plain language prohibits consideration of maturity and rehabilitation. Instead, they argue that consideration of maturity and rehabilitation is subsumed within, and is thus required by, the three factors enumerated in section 18-1.3-1006(1)(a). It is this interpretative dispute between the parties that frames the certified question before us, and we begin our analysis, as we must, with the plain language of the statute.

¶28 As Godinez contends, SOLSA’s plain language mandates that the parole board consider the three enumerated factors discussed above. *See Hodges v. People*, 158 P.3d 922, 926 (Colo. 2007) (stating that the use of the word “shall” in a statute “is a word of command, denoting obligation and excluding the idea of discretion”). We disagree with Godinez, however, that the use of the word “shall” requires the state parole board to consider *only* those three factors.

¶29 As an initial matter, we note that section 18-1.3-1006(1)(a) nowhere states that a parole board may consider only the three enumerated factors. And reading such a limitation into the statute would require us to add words that the General Assembly did not use, which we may not do. *See Turbyne v. People*, 151 P.3d 563, 567 (Colo. 2007) (“We do not add words to the statute or subtract words from it.”).

¶30 In addition, although this court has often stated that the use of the word “shall” in a statute generally indicates the legislature’s intent that the term be mandatory, *see, e.g., Waddell v. People*, 2020 CO 39, ¶ 16, 462 P.3d 1100, 1106; *Hodges*, 158 P.3d at 926, we have never said that because the plain language of a statute mandates the assessment of certain factors, it necessarily excludes others. And a division of our court of appeals has concluded to the contrary. *See Prospect 34, LLC v. Gunnison Cnty. Bd. of Cnty. Comm’rs*, 2015 COA 160, ¶¶ 14–16, 363 P.3d 819, 822 (concluding that the four bases for a tax abatement set forth in section 39-10-114(1)(a)(I)(A), C.R.S. (2023), are not necessarily exclusive because the word

“whether,” which preceded them in the text, is not a word of limitation or an exclusory term). Thus, although the use of the word “shall” removes the parole board’s discretion *not* to evaluate the three factors enumerated in the statute, *see People v. Guenther*, 740 P.2d 971, 975 (Colo. 1987) (noting that the word “shall” when used in a statute connotes something mandatory and is “the antithesis of discretion or choice”), we perceive nothing in SOLSA’s text that restricts a parole board from considering *additional* factors that may be pertinent to the specific parole applicant.

¶31 Accordingly, we conclude that SOLSA’s plain language does not prohibit consideration of factors or circumstances beyond the three enumerated therein and, thus, at the very least, permits a parole board to consider maturity and rehabilitation when determining whether to parole a sex offender.

¶32 The question remains, however, whether consideration of maturity, rehabilitation, or both is subsumed within, and thus mandated by, SOLSA’s three enumerated factors, as the People contend. To answer this question, we must first define those terms.

¶33 Although this court does not appear to have defined the term “mature” or “maturity,” Webster’s Third New International Dictionary defines “mature” as “having or expressing the mental and emotional qualities that are considered normal to an adult socially adjusted human being.” *Mature*, Webster’s Third New

International Dictionary (2002). Mosby's Medical Dictionary similarly defines "maturation" as "the process or condition of attaining complete development. In humans it is the unfolding of full physical, emotional, and intellectual capacities that enable a person to function at a higher level of competency and adaptability within the environment." *Maturation*, Mosby's Medical Dictionary (7th ed. 2006).

¶34 A division of our court of appeals has likewise described maturity in the context of a minor's decision to have an abortion. *In re Doe*, 166 P.3d 293, 295 (Colo. App. 2007). There, the division stated that maturity "calls for experience, perspective and judgment." *Id.* (quoting *H.B. v. Wilkinson*, 639 F. Supp. 952, 954 (D. Utah 1986)). Experience is informed by, among other things, a minor's "prior work experience, experience in living away from home, and handling personal finances." *Id.* (quoting *H.B.*, 639 F. Supp. at 954). Perspective "calls for appreciation and understanding of the relative gravity and possible detrimental impact of each available option, as well as realistic perception and assessment of possible short term and long term consequences of each of those options." *Id.* (quoting *H.B.*, 639 F. Supp. at 954). And "[t]he exercise of good judgment requires being fully informed so as to be able to weigh alternatives independently and realistically." *Id.* (quoting *H.B.*, 639 F. Supp. at 954).

¶35 The foregoing definitions are consistent with the way in which the Supreme Court has described the differences between adults and juveniles. In *Roper v.*



*Simmons*, 543 U.S. 551, 569–70 (2005), for example, the Court opined that juvenile offenders are different from adult offenders because juveniles (1) lack maturity and have an underdeveloped sense of responsibility, which qualities frequently result in impetuous and ill-considered actions and decisions; (2) are more vulnerable to or susceptible of negative influences and outside pressure, including peer pressure; and (3) have characters that are not as well formed as those of adults. Similarly, in *Miller v. Alabama*, 567 U.S. 460, 472 (2012), the Court observed that juveniles tend to exhibit “transient rashness, proclivity for risk, and [an] inability to assess [the] consequences” of their actions. It is differences like these that formed the basis for the Supreme Court’s requirement that a juvenile convicted of a non-homicide offense must be given a chance to demonstrate “maturity of judgment.” *Graham*, 560 U.S. at 79.

¶36 As the foregoing definitions suggest, “no definitive list of criteria can be adopted to determine maturity.” *Doe*, 166 P.3d at 295. “Rather, this determination must be made on a case-by-case basis.” *Id.* Nonetheless, the above-described definitions make clear that maturity involves, at the very least, the process of developing a stronger sense of responsibility, better judgment, more self-control, and the ability to resist negative outside influences.

¶37 Turning then to “rehabilitation,” we note that Black’s Law Dictionary defines that term as “[t]he process of seeking to improve a criminal’s character and

outlook so that he or she can function in society without committing other crimes.” *Rehabilitation*, Black’s Law Dictionary (11th ed. 2019). Webster’s Third New International Dictionary similarly defines “rehabilitation” as “the process of restoring an individual (as a convict, mental patient, or disaster victim) to a useful and constructive place in society through some form of vocational, correctional, or therapeutic retraining or through relief, financial aid, or other reconstructive measure.” *Rehabilitation*, Webster’s Third New International Dictionary (2002).

¶38 With these definitions in mind, we turn to the arguments before us.

¶39 The People contend that SOLSA’s first factor (i.e., progress through treatment) necessarily requires the parole board to consider both maturity and rehabilitation because (1) eligibility for treatment depends, in part, on the sex offender’s willingness to participate in treatment and commit to the program; and (2) treatment program goals include, among other things, showing management of risk factors in a group setting and demonstrating a commitment to behave as a responsible member of the community. The People further contend that SOLSA’s second and third factors (i.e., the level of risk posed by the sex offender to the community if released under appropriate treatment and monitoring requirements and the probability that the offender will not thereafter violate the law) mandate that a parole board consider maturity and rehabilitation because those

characteristics are necessary to show that an individual does not pose a threat to the community or poses a low risk of violating the law upon his release.

¶40 Regarding maturity, we agree with the People that a willingness to recognize problematic behavior and to work to address it tends to evince maturity. The concept of maturity, however, is broader than merely recognizing and addressing problematic behavior.

¶41 As the above-described dictionary definitions and Supreme Court precedent indicate, maturity requires a person to display a number of mental, emotional, social, and ethical qualities. As a result, maturity cannot be measured by reference to one or two isolated characteristics. *See also Roper*, 543 U.S. at 574 (stating that the qualities that distinguish juveniles from adults do not disappear when an individual turns eighteen and that some under eighteen have attained a level of maturity that some adults will never reach, thus indicating that age alone cannot measure maturity). Accordingly, we disagree with the People's contention that the decision to pursue and the progress made in treatment alone capture the complexities involved in evaluating whether a person may be deemed mature.

¶42 We likewise are unpersuaded by the People's argument that participation and progress through treatment or SOLSA's risk assessment necessarily constitutes a proxy for maturity. Although, to be sure, some of the traits of a person who successfully completes a treatment program or who poses a low risk

of reoffending when re-entering society may correlate, to a degree, with the characteristics of a mature person, sex offender treatment programs and sex offender risk assessments are not designed to measure developmental maturity. Instead, as we discuss more fully below, these programs and assessments are principally geared toward rehabilitation. Accordingly, we cannot say that an offender's participation and progress in treatment programs or an offender's positive risk assessments necessarily establish maturity.

¶43 Lastly, we disagree with the People's contention that SOLSA's treatment program necessarily requires consideration of maturity because it is akin to the Juveniles Convicted as Adults Program ("JCAP"), section 17-34-101, C.R.S. (2023), which, the People say, the Tenth Circuit has already deemed compliant with *Graham*. See *Rainer v. Hansen*, 952 F.3d 1203, 1208–11 (10th Cir. 2020). In *Rainer*, however, the Tenth Circuit determined that the *combination* of JCAP and Colorado's general parole provisions, not JCAP alone, provided the habeas petitioner in that case with a meaningful opportunity for release based on demonstrated maturity and rehabilitation. *Id.* Moreover, the parole eligibility requirements under JCAP enumerate participation, demonstrated responsibility, and commitment in the programs offered to juvenile offenders, on the one hand, and increasing developmental maturity and quantifiable good behavior during incarceration, on the other hand, suggesting that maturity and participation in

treatment programs are separate and distinct factors, contrary to the People's assertions in the present case. *See* § 17-34-101(1)(a)(I)(E)-(F).

¶44 For these reasons, we conclude that SOLSA's three factors do not necessarily encompass consideration of maturity, and therefore SOLSA does not *require* parole boards to consider demonstrated maturity, although as discussed above, such consideration is permitted.

¶45 We reach a different conclusion, however, with respect to rehabilitation.

¶46 As noted above, sex offender treatment programs are rehabilitative by design because the purpose of requiring sex offenders to undergo treatment is precisely to rehabilitate them so that they can re-enter society with a low risk of re-offending. *See, e.g.*, § 18-1.3-1001, C.R.S. (2023) (providing that sex offenders, "if incarcerated or supervised without treatment, will continue to present a danger to the public when released from incarceration and supervision" and that "some sex offenders respond well to treatment and can function as safe, responsible, and contributing members of society, so long as they receive treatment and supervision"); *see also McKune v. Lile*, 536 U.S. 24, 33 (2002) (noting that states have a "vital interest in rehabilitating convicted sex offenders" and that "[t]herapists and correctional officers widely agree that clinical rehabilitative programs can enable sex offenders to manage their impulses and in this way reduce recidivism").

¶47 In addition, in our view, sex offenders who have received correctional or therapeutic retraining such that they can become constructive citizens and function in society without re-offending would meet any of the definitions of “rehabilitation” described above. Accordingly, unlike with respect to maturity, in our view, the three factors enumerated in SOLSA necessarily subsume the rehabilitative process.

¶48 For these reasons, we conclude that SOLSA’s three enumerated factors require parole boards to consider rehabilitation.

¶49 In so concluding, we acknowledge the People’s additional contention that SOLSA necessarily requires consideration of both maturity and rehabilitation because, in their view, SOLSA impliedly incorporates Colorado’s general parole provisions. These provisions state that, in considering offenders for parole, the parole board “shall consider the totality of the circumstances,” including but not limited to the eleven factors enumerated therein, which do not expressly include maturity and rehabilitation. § 17-22.5-404(4)(a)(I)–(XI), C.R.S. (2023). The People contend that the “totality of the circumstances” necessarily includes maturity and rehabilitation, and thus, by incorporating the general parole scheme, SOLSA requires consideration of both.

¶50 We need not decide whether SOLSA, in fact, incorporates section 17-22.5-404(4)(a)(I)–(XI) of the general parole provisions because even if it did, our

conclusion would be the same. We have already determined that SOLSA requires the parole board to consider rehabilitation. And as for maturity, although the “totality of the circumstances” arguably could include consideration of maturity, section 17-22.5-404(4)(a)(I)-(XI), like SOLSA, does not *expressly* require such consideration. Rather, under a totality of the circumstances analysis, a parole board retains its discretion to consider any and all of the factors that it deems pertinent to the specific case, which may or may not include an assessment of the offender’s maturity.

¶51 Accordingly, even if SOLSA incorporates the general parole provisions, we do not agree that those provisions require the parole board to consider maturity, although such consideration is permissible.

### **III. Conclusion**

¶52 For these reasons, we answer the certified question by concluding that SOLSA permits consideration of maturity and requires consideration of rehabilitation.