

2017 Regular Session

SENATE BILL NO. 16

BY SENATOR CLAITOR

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

JUVENILE JUSTICE. Provides relative to certain juveniles sentenced to life without parole.
(gov sig)

AN ACT

To amend and reenact Code of Criminal Procedure Article 878.1(A) and the introductory paragraph of R.S. 15:574.4(E)(1) and 574.4(E)(1)(a), and to enact R.S. 15:574.4(F), relative to juvenile parole eligibility; to provide parole eligibility for juveniles sentenced to life imprisonment without the possibility of parole for certain homicide offenses; to provide for conditions; to provide relative to the sentencing hearing for certain juvenile offenders convicted of first degree murder; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 878.1(A) is hereby amended and reenacted to read as follows:

§878.1. Sentencing hearing for juvenile offenders

A. In any case where an offender is to be sentenced to life imprisonment for a conviction of first degree murder (R.S. 14:30) ~~or second degree murder (R.S. 14:30.1)~~ where the offender was under the age of eighteen years at the time of the commission of the offense, **upon motion of the district attorney within one hundred eighty days of obtaining an indictment,** a hearing shall be conducted

1 prior to sentencing to determine whether the sentence shall be imposed with or
2 without parole eligibility pursuant to the provisions of R.S. 15:574.4(E). **If the**
3 **district attorney does not timely file a motion pursuant to the provisions of this**
4 **Paragraph, then the offender shall be eligible for parole pursuant to the**
5 **provisions of R.S. 15:574.4(E).**

6 * * *

7 Section 2. The introductory paragraph of R.S. 15:574.4(E)(1) and 574.4(E)(1)(a) are
8 hereby amended and reenacted, and R.S. 15:574.4(F) is hereby enacted to read as follows:

9 §574.4. Parole; eligibility; **juvenile offenders**

10 * * *

11 E.(1) Notwithstanding any provision of law to the contrary, any person
12 serving a sentence of life imprisonment for a conviction of first degree murder (R.S.
13 14:30) ~~or second degree murder (R.S. 14:30.1)~~ who was under the age of eighteen
14 years at the time of the commission of the offense shall be eligible for parole
15 consideration pursuant to the provisions of this Subsection if a judicial determination
16 has been made that the person is entitled to parole eligibility pursuant to Code of
17 Criminal Procedure Article 878.1 and all of the following conditions have been met:

18 (a) The offender has served ~~thirty-five~~ **thirty** years of the sentence imposed.

19 * * *

20 **F.(1) Notwithstanding any provision of law to the contrary, any person**
21 **serving a sentence of life imprisonment for a conviction of first degree murder**
22 **(R.S. 14:30) or second degree murder (R.S. 14:30.1) who was under the age of**
23 **eighteen years at the time of the commission of the offense and whose conviction**
24 **became final prior to June 25, 2012, or any person serving a sentence of life**
25 **imprisonment for a conviction of second degree murder (R.S. 14:30.1) who was**
26 **under the age of eighteen years at the time of the commission of the offense and**
27 **whose conviction became, or becomes, final at any time whatsoever, shall be**
28 **eligible for parole consideration pursuant to the provisions of this Subsection**
29 **if all of the following conditions have been met:**

1 (a) The offender has served thirty years of the sentence imposed.

2 (b) The offender has not committed any major disciplinary offenses in
3 the twelve consecutive months prior to the parole hearing date. For purposes of
4 this Subsection, a major disciplinary offense is an offense identified as a
5 Schedule B offense by the Department of Public Safety and Corrections in the
6 Disciplinary Rules and Procedures for Adult Offenders.

7 (c) The offender has completed the mandatory minimum of one hundred
8 hours of prerelease programming in accordance with the provisions of R.S.
9 15:827.1.

10 (d) The offender has completed substance abuse treatment as applicable.

11 (e) The offender has obtained a GED certification, unless the offender
12 has previously obtained a high school diploma or is deemed by a certified
13 educator as being incapable of obtaining a GED certification due to a learning
14 disability. If the offender is deemed incapable of obtaining a GED certification,
15 the offender shall complete at least one of the following:

16 (i) A literacy program.

17 (ii) An adult basic education program.

18 (iii) A job skills training program.

19 (f) The offender has obtained a low-risk level designation determined by
20 a validated risk assessment instrument approved by the secretary of the
21 Department of Public Safety and Corrections.

22 (g) The offender has completed a reentry program to be determined by
23 the Department of Public Safety and Corrections.

24 (2) For each offender eligible for parole consideration pursuant to the
25 provisions of this Subsection, the committee on parole shall meet in a
26 three-member panel, and each member of the panel shall be provided with and
27 shall consider a written evaluation of the offender by a person who has expertise
28 in adolescent brain development and behavior and any other relevant evidence
29 pertaining to the offender.

(3) The panel shall render specific findings of fact in support of its decision.

Section 3. The provisions of R.S. 15:574.4(E) as amended by this Act shall apply prospectively and retroactively to any person convicted on or after June 25, 2012.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 16 Engrossed

2017 Regular Session

Claitor

Present law provides relative to parole eligibility for certain imprisoned offenders under certain circumstances.

In *Miller v. Alabama*, 567 U.S. ____, 132 S.Ct. 2455 (2012), the Supreme Court held that mandatory life imprisonment without the possibility of parole for an offender under the age of 18 violates the 8th Amendment's prohibition on cruel and unusual punishment.

Accordingly, present law provides parole eligibility for certain juvenile offenders that are serving a life sentence for first degree murder or second degree murder. Present law further provides parole eligibility for such persons if a judicial determination has been made that the person is entitled to parole eligibility pursuant to a sentencing hearing and certain conditions are met, including the requirement that the person serve 35 years of the sentence imposed.

Present law provides that for persons who are eligible for parole consideration pursuant to present law, the committee on parole is to meet in a three-member panel, each member of the panel is to be provided with and is to consider a written evaluation of the offender by a person who has expertise in adolescent brain development and behavior, and the panel must render specific findings of fact in support of its decision.

Present law provides that in any case where the offender is to be sentenced to life imprisonment for a conviction of first degree murder or second degree murder, and the offender was under the age of 18 years at the time of the commission of the offense, a hearing is to be conducted prior to sentencing to determine whether the sentence will be imposed with or without parole eligibility.

In *Montgomery v. Louisiana*, 577 U.S. ____, 136 S.Ct. 718 (2016), the Supreme Court held that *Miller's* prohibition on mandatory life without parole for juveniles must be applied retroactively. The court further held that a state may remedy a *Miller* violation by extending parole eligibility to juvenile offenders.

Accordingly, proposed law retains present law except that proposed law does the following:

- (1) Provides parole eligibility for any person serving a sentence of life imprisonment for

- a conviction of first or second degree murder who was under the age of 18 years at the time of the commission of the offense and whose conviction became final prior to 6/25/12 if certain conditions are met, including the condition that the person serve at least 30 years of the sentence imposed. The present law sentencing hearing is not required to determine whether such persons are eligible for parole.
- (2) Amends the present law provision that provides parole eligibility for persons convicted of first or second degree murder who were under the age of 18 at the time of the commission of the offense and whose conviction became final on or after 6/25/12, to decrease the number of years such persons are required to serve prior to becoming eligible for parole from 35 to 30. Proposed law retains the present law requirement of a sentencing hearing to determine whether such persons are eligible for parole.
 - (3) Adds that, upon motion by the district attorney within 180 days of obtaining an indictment, a sentencing hearing is to be held in any case where a juvenile offender is to be sentenced to life imprisonment for a conviction of first degree murder to determine whether the sentence will be imposed with or without parole eligibility.
 - (4) Deletes the requirement of a sentencing hearing for juvenile offenders convicted of second degree murder, regardless of the date of conviction, to determine whether the life sentence will be imposed with or without parole eligibility. Such persons are eligible for parole upon serving 30 years of the sentence imposed and meeting other conditions in present law.
 - (5) Provides that for all persons eligible for parole pursuant to provisions of present law and proposed law, the committee on parole is to meet in a three-member panel, and each member of the panel is to be provided with and is to consider a written evaluation of the offender by a person who has expertise in adolescent brain development and behavior. The panel must render specific findings of fact in support of its decision.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends C.Cr.P. Art. 878.1(A) and R.S. 15:574.4(E)(1)(intro para) and 574.4(E)(1)(a); adds R.S. 15:574.4(F))