

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 the introductory paragraph of R.S. 15:574.4(D)(1) and 574.4(D)(1)(a) and (2) and to repeal Code of Criminal Procedure Article 878.1 and R.S. 15:574.4(E), relative to juvenile parole eligibility; to provide parole eligibility for juveniles sentenced to life imprisonment without the possibility of parole for certain offenses; to provide for conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S. 15:574.4(D)(1) and 574.4(D)(1)(a) and (2) are hereby amended and reenacted to read as follows:

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

* * *

D.(1) ~~Notwithstanding~~ **Regardless of the date of conviction and sentence and notwithstanding** any provision of law to the contrary, any person serving a sentence of life imprisonment who was under the age of eighteen years at the time of the commission of the offense, ~~except for a person serving a life sentence for a conviction of first degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1);~~ shall be eligible for parole consideration pursuant to the provisions of this

Subsection if all of the following conditions have been met:

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

* * *

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

* * *

Section 2. Code of Criminal Procedure Article 878.1 is hereby repealed.

Section 3. R.S. 15:574.4(E) is hereby repealed.

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 was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by McHenry Lee.

DIGEST

SB 16 Reengrossed

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.

Additionally, 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.

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.

Proposed law repeals present law.

Present law provides parole eligibility for a juvenile offender who is serving a life sentence and who was under the age of 18 at the time of the commission of the offense, except for a person convicted of first degree murder or second degree murder. Present law further provides that such a person is entitled to parole eligibility if certain conditions are met, including the requirement that the person serve 30 years of the sentence imposed.

Proposed law provides that any person serving a life sentence who was under 18 at the time of the commission of the offense, regardless of the date of conviction and sentence, is eligible for parole if certain conditions are met, including the requirement that the person serve 25 years of the sentence imposed.

Present law provides parole eligibility for a juvenile offender serving a life sentence for first degree murder or second degree murder who was under the age of 18 at the time of the offense. Present law further provides parole eligibility for such a person 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.

Proposed law repeals present law.

Present law provides that for a person who is 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.

Proposed law retains present law.

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

(Amends R.S. 15:574.4(D)(1)(intro para) and 574.4(D)(1)(a) and (D)(2); repeals C.Cr.P. Art. 878.1 and R.S. 15:574.4(E))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Repeals provision requiring a hearing before sentencing to determine whether the sentence will be imposed with or without parole eligibility.
2. Repeals provision providing for parole eligibility specifically for first degree murder and second degree murder offenses.
3. Removes the provisions providing retroactive application for parole eligibility.