

HOUSE COMMITTEE AMENDMENTS

2017 Regular Session

Amendments proposed by House Committee on Administration of Criminal Justice to Reengrossed Senate Bill No. 16 by Senator Claitor

1 AMENDMENT NO. 1

2 On page 1, delete lines 2 through 5 in their entirety and insert the following:

3 "To amend and reenact R.S. 15:574.4(D)(1)(a) and (2) and (E)(1)(introductory
4 paragraph) and (a) and Code of Criminal Procedure Article 878.1 and to
5 enact R.S. 15:574.4(F) and (G), relative to juvenile parole eligibility; to
6 provide relative to parole eligibility for juveniles who commit certain
7 homicide offenses; to provide relative to the judicial determination of parole
8 eligibility; to provide relative to parole eligibility for juveniles sentenced to
9 life imprisonment for non-homicide"

10 AMENDMENT NO. 2

11 On page 1, delete lines 8 and 9 in their entirety and insert the following:

12 "Section 1. R.S. 15:574.4(D)(1)(a) and (2) and (E)(1)(introductory
13 paragraph) and (a) are hereby amended and reenacted and R.S. 15:574.4(F)
14 and (G) are hereby enacted to read as follows:"

15 AMENDMENT NO. 3

16 On page 1, delete lines 12 through 17 in their entirety, on page 2, delete line 1 in its entirety,
17 and insert the following:

18 "D.(1) Notwithstanding any provision of law to the contrary, any
19 person serving a sentence of life imprisonment who was under the age of
20 eighteen years at the time of the commission of the offense, except for a
21 person serving a life sentence for a conviction of first degree murder (R.S.
22 14:30) or second degree murder (R.S. 14:30.1), shall be eligible for parole
23 consideration pursuant to the provisions of this Subsection if all of the
24 following conditions have been met:"

25 AMENDMENT NO. 4

26 On page 2, delete lines 11 through 17 in their entirety and insert the following:

27 "E.(1) Notwithstanding any provision of law to the contrary and
28 except as provided in Subsection G of this Section, any person serving a
29 sentence of life imprisonment for a conviction of first degree murder (R.S.
30 14:30) ~~or second degree murder (R.S. 14:30.1)~~ who was under the age of
31 eighteen years at the time of the commission of the offense and whose
32 indictment for the offense is on or after August 1, 2017, shall be eligible for
33 parole consideration pursuant to the provisions of this Subsection if a judicial
34 determination has been made that the person is entitled to parole eligibility
35 pursuant to Code of Criminal Procedure Article 878.1(A) and all of the
36 following conditions have been met:

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

39 * * *

40 F.(1) Notwithstanding any provision of law to the contrary and
41 except as provided in Subsection G of this Section, any person serving a

1 sentence of life imprisonment for a conviction of second degree murder (R.S.
 2 14:30.1) who was under the age of eighteen years at the time of the
 3 commission of the offense and whose indictment for the offense is on or after
 4 August 1, 2017, shall be eligible for parole consideration if all of the
 5 following conditions have been met:

6 (a) The offender has served twenty-five years of the sentence
 7 imposed.

8 (b) The offender has not committed any major disciplinary offenses
 9 in the twelve consecutive months prior to the parole hearing date. A major
 10 disciplinary offense is an offense identified as a Schedule B offense by the
 11 Department of Public Safety and Corrections in the Disciplinary Rules and
 12 Procedures for Adult Offenders.

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

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

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

22 (i) A literacy program.

23 (ii) An adult basic education program.

24 (iii) A job skills training program.

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

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

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

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

38 G. (1) Notwithstanding any provision of law to the contrary, any
 39 person serving a sentence of life imprisonment for a conviction of first
 40 degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1) who was
 41 under the age of eighteen years at the time of the commission of the offense
 42 and whose indictment for the offense was prior to August 1, 2017, shall be
 43 eligible for parole consideration pursuant to the provisions of this Subsection
 44 if a judicial determination has been made that the person is entitled to parole
 45 eligibility pursuant to Code of Criminal Procedure Article 878.1(B) and all
 46 of the following conditions have been met:

47 (a) The offender has served twenty-five years of the sentence
 48 imposed.

49 (b) The offender has not committed any major disciplinary offenses
 50 in the twelve consecutive months prior to the parole hearing date. A major
 51 disciplinary offense is an offense identified as a Schedule B offense by the
 52 Department of Public Safety and Corrections in the Disciplinary Rules and
 53 Procedures for Adult Offenders.

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

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

58 (e) The offender has obtained a GED certification, unless the
 59 offender has previously obtained a high school diploma or is deemed by a

1 certified educator as being incapable of obtaining a GED certification due to
 2 a learning disability. If the offender is deemed incapable of obtaining a GED
 3 certification, the offender shall complete at least one of the following:

4 (i) A literacy program.

5 (ii) An adult basic education program.

6 (iii) A job skills training program.

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

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

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

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

20 Section 2. Code of Criminal Procedure Article 878.1 is hereby
 21 amended and reenacted to read as follows:

22 Art. 878.1. ~~Sentencing hearing~~ Hearing to determine parole eligibility for
 23 certain juvenile offenders

24 A. ~~In any case where an~~ If an offender is indicted on or after August
 25 1, 2017, for the crime to be sentenced to life imprisonment for a conviction
 26 of first degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1)
 27 where the offender was under the age of eighteen years at the time of the
 28 commission of the offense, the district attorney shall file a notice of intent to
 29 seek a sentence of life imprisonment without possibility of parole within one
 30 hundred eighty days after the indictment. If the district attorney timely files
 31 the notice of intent, a hearing shall be conducted after conviction and prior
 32 to sentencing to determine whether the sentence shall be imposed with or
 33 without parole eligibility. If the court determines that the sentence shall be
 34 imposed with parole eligibility, the offender shall be eligible for parole
 35 pursuant to the provisions of R.S. 15:574.4(E). If the district attorney fails to
 36 timely file the notice of intent, the sentence shall be imposed with parole
 37 eligibility and the offender shall be eligible for parole pursuant to the
 38 provisions of R.S. 15:574.4(E) without the need of a judicial determination
 39 pursuant to the provisions of this Article. If the court determines that the
 40 sentence shall be imposed without parole eligibility, the offender shall not be
 41 eligible for parole.

42 B.(1) If an offender was indicted prior to August 1, 2017, for the
 43 crime of first degree murder (R.S. 14:30) or second degree murder (R.S.
 44 14:30.1) where the offender was under the age of eighteen years at the time
 45 of the commission of the offense and a hearing was not held pursuant to this
 46 Article prior to August 1, 2017, to determine whether the offender's sentence
 47 should be imposed with or without parole eligibility, the district attorney
 48 shall file a notice of intent to seek a sentence of life imprisonment without
 49 the possibility of parole within ninety days of August 1, 2017. If the district
 50 attorney timely files the notice of intent, a hearing shall be conducted to
 51 determine whether the sentence shall be imposed with or without parole
 52 eligibility. If the court determines that the sentence shall be imposed with
 53 parole eligibility, the offender shall be eligible for parole pursuant to R.S.
 54 15:574.4(G). If the district attorney fails to timely file the notice of intent,
 55 the offender shall be eligible for parole pursuant to R.S. 15:574.4(E) without
 56 the need of a judicial determination pursuant to the provisions of this Article.
 57 If the court determines that the sentence shall be imposed without parole
 58 eligibility, the offender shall not be eligible for parole.

1 (2) If an offender was indicted prior to August 1, 2017, for the crime
 2 of first degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1)
 3 where the offender was under the age of eighteen years at the time of the
 4 commission of the offense and a hearing was held pursuant to this Article
 5 prior to August 1, 2017, the following shall apply:

6 (a) If the court determined at the hearing that was held prior to
 7 August 1, 2017, that the offender's sentence shall be imposed with parole
 8 eligibility, the offender shall be eligible for parole pursuant to R.S.
 9 15:574.4(G).

10 (b) If the court determined at the hearing that was held prior to
 11 August 1, 2017, that the offender's sentence shall be imposed without parole
 12 eligibility, the offender shall not be eligible for parole.

13 B.C. At the hearing, the prosecution and defense shall be allowed to
 14 introduce any aggravating and mitigating evidence that is relevant to the
 15 charged offense or the character of the offender, including but not limited to
 16 the facts and circumstances of the crime, the criminal history of the offender,
 17 the offender's level of family support, social history, and such other factors
 18 as the court may deem relevant. Expert witness testimony is only necessary
 19 as required by the court. Sentences imposed without parole eligibility should
 20 normally be reserved for the worst offenders and the worst cases.

21 D. The sole purpose of the hearing is to determine whether the
 22 sentence shall be imposed with or without parole eligibility. The court shall
 23 state for the record the considerations taken into account and the factual basis
 24 for its determination. Sentences imposed without parole eligibility and
 25 determinations that an offender is not entitled to parole eligibility should
 26 normally be reserved for the worst offenders and the worst cases."