

CONFERENCE COMMITTEE REPORT

HB 264

2016 Regular Session

Mack

June 6, 2016

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 264 by Representative Mack, recommend the following concerning the Reengrossed bill:

1. That the set of Senate Floor Amendments by Senator Martiny (#3827) be rejected.
2. That the following amendments to the reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, delete line 2 in its entirety and insert the following:

"To amend and reenact R.S. 15:574.4(E)(1)(a) and Code of Criminal Procedure Article 878.1(A) and to enact R.S. 15:574.4(F), relative to juvenile parole eligibility; to provide for parole"

AMENDMENT NO. 2

On page 1, line 4, after "conditions;" and before "and" insert "to provide relative to the sentencing hearing for certain juvenile offenders convicted of first degree murder;"

AMENDMENT NO. 3

On page 1, between lines 9 and 10, insert the following:

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

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

\* \* \*

AMENDMENT NO. 4

On page 1, line 14, after "June 25, 2012," and before "shall" insert the following:

"or any person serving a sentence of life imprisonment for a conviction of second degree murder (R.S. 14:30.1) who was under the age of eighteen years at the time of the commission of the offense and whose conviction became, or becomes, final at any time whatsoever"

AMENDMENT NO. 5

On page 1, line 16, after "served" and before "years" change "thirty-five" to "thirty"

AMENDMENT NO. 6

On page 2, between lines 26 and 27, insert the following:

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

\* \* \*

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."

AMENDMENT NO. 7

On page 2, at the beginning of line 27, change "Section 2." to "Section 4."

Respectfully submitted,

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Representative Sherman Mack

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Senator Daniel "Danny" Martiny

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Representative Lowell C. Hazel

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Senator Dan Claitor

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Representative Valarie Hodges

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Senator Jean-Paul J. Morrell

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 DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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**CONFERENCE COMMITTEE REPORT DIGEST**
**HB 264****2016 Regular Session****Mack**
**Keyword and oneliner of the instrument as it left the House**

JUVENILES/DELINQUENTS: Provides with respect to sentencing of juvenile offenders sentenced to life imprisonment for certain offenses

**Report rejects Senate amendments which would have:**

1. Deleted the proposed law provision that provides parole eligibility for juvenile offenders convicted of first or second degree murder prior to June 25, 2012, upon serving 35 years of the sentence imposed and meeting certain other conditions.
2. Amended the present law provision that provides parole eligibility for juvenile offenders convicted of first or second degree murder to remove the requirement that a sentencing hearing be held to establish parole eligibility and to provide for retroactive and prospective application of the law.

**Report amends the bill to:**

1. Provide 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 June 25, 2012, if the person meets certain conditions, including the condition that he serve at least 30 years of the sentence imposed. A sentencing hearing is not required to determine whether such persons are eligible for parole.
2. Amend present law provision which 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 June 25, 2012, to decrease the number of years such persons are required to serve prior to becoming eligible for parole from 35 years to 30 years. Retain the present law provision which requires a sentencing hearing to determine whether such persons are eligible for parole.
3. Amend the present law provision to require that, upon motion by the district attorney within 180 days of obtaining an indictment, a sentencing hearing be held in any case where an offender, who was under the age of 18 at the time of the commission of the offense, is to be sentenced to life imprisonment for a conviction of first degree murder to determine whether the sentence shall be imposed with or without parole eligibility.
4. Amend the present law provision to no longer require any juvenile offender who is to be sentenced to life imprisonment for second degree murder, regardless of the date of conviction, to be subject to the required sentencing hearing to determine parole eligibility, and provide that such persons shall be eligible for parole upon serving 30 years of the sentence imposed and meeting other required conditions provided for in present law.

**Digest of the bill as proposed by the Conference Committee**

Present law (R.S. 15:574.4(E)) provides parole eligibility for certain juvenile offenders that are serving a life sentence for 1<sup>st</sup> degree murder or 2<sup>nd</sup> degree murder if a judicial determination has been made that the person is entitled to parole eligibility pursuant to a sentencing hearing provided for in present law (C.Cr.P. Art. 878.1) and certain conditions are met, including the requirement that the person serve 35 years of the sentence imposed.

For persons who are eligible for parole consideration pursuant to this present law provision present law further provides that the committee on parole shall meet in a three-member panel, 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 the panel shall render specific findings of fact in support of its decision.

Present law (C.Cr.P. Art. 878.1) provides that in any case where the offender is to be sentenced to life imprisonment for a conviction of 1<sup>st</sup> degree murder or 2<sup>nd</sup> degree murder and the offender was under the age of 18 years at the time of the commission of the offense, a hearing shall be conducted prior to sentencing to determine whether the sentence shall be imposed with or without parole eligibility.

Proposed law does all of 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 June 25, 2012, if the person meets certain conditions, including the condition that he serve at least 30 years of the sentence imposed. The present law sentencing hearing (C.Cr.P. Art. 878.1) is not required to determine whether such persons are eligible for parole.
2. Amends the present law provision (R.S. 15:574.4(E)) which 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 June 25, 2012, to decrease the number of years such persons are required to serve prior to becoming eligible for parole from 35 years to 30 years. Proposed law retains the present law provision which requires a sentencing hearing be held to determine whether such persons are eligible for parole.
3. Amends the present law provision (C.Cr.P. Art. 878.1) to require that, upon motion by the district attorney within 180 days of obtaining an indictment, a sentencing hearing 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 shall be imposed with or without parole eligibility.
4. Amends present law to no longer require that juvenile offenders convicted of second degree murder, regardless of the date of conviction, be subject to this sentencing hearing (C.Cr.P. Art. 878.1) to determine whether the life sentence shall be imposed with or without parole eligibility. Such persons shall be eligible for parole upon serving 30 years of the sentence imposed and meeting other required conditions provided for in present law.
5. Provides that for all persons eligible for parole pursuant to these provisions of proposed and present law the committee on parole shall meet in a three-member panel, 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 the panel shall render specific findings of fact in support of its decision.

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