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

SB 16 Engrossed DIGEST Claitor
2017 Regular Session

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))