

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 16

2017 Regular Session

Claitor

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

JUVENILE JUSTICE. Provides for certain juveniles sentenced to life without parole. (8/1/17)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Deletes repeal of provisions relative to the judicial determination of whether a juvenile offender's sentence for first or second degree murder is to be imposed with or without parole eligibility.
2. Deletes repeal of provisions relative to the parole eligibility of juvenile offender sentenced to life imprisonment for first or second degree murder.
3. Removes governor' s signature effective date.
4. Adds provisions relative to parole eligibility for juvenile offenders convicted of first degree murder whose indictment for the offense is on or after Aug. 1, 2017; for juvenile offenders convicted of second degree murder whose indictment for the offense is on or after Aug. 1, 2017; and for juvenile offenders convicted of first or second degree murder whose indictment for the offense was prior to Aug. 1, 2017.
5. Adds procedure for the judicial determination of whether a juvenile offender's sentence is to be imposed with or without parole eligibility.
6. Adds provisions that a judicial determination of parole eligibility is not required as to juvenile offenders convicted of second degree murder whose indictment for the offense is on or after Aug. 1, 2017.
7. With regard to hearings to determinate a juvenile offender's parole eligibility, adds provisions that expert testimony is only necessary as determined by the court; provides that the sole purpose of the hearing is determine whether the sentence is to be imposed with or without parole eligibility; and requires a court to state for the record the considerations taken into account and the factual basis for the determination.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

SB 16 Reengrossed

2017 Regular Session

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In *Miller v. Alabama*, 567 U.S. ____, 132 S.Ct. 2455 (2012), the U.S. 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.

Present law relative to juvenile sentences of life imprisonment for homicide offenses was applied only to persons whose conviction became final after the U.S. Supreme Court's decision in *Miller*. In *Montgomery v. Louisiana*, 577 U.S. ____ (2016), the U.S. Supreme Court held that its previous ruling in *Miller* should be applied retroactively to persons whose conviction became final prior to the *Miller* decision which was rendered on June 25, 2012.

Present law provides for parole eligibility of person convicted of first or second degree murder who was under age 18 at time of the offense if a judicial determination is made that the person is entitled to parole eligibility under certain conditions and the person has served 35 years of the sentence imposed.

Proposed law requires that persons serving a life sentence for conviction of the crime of first or second degree murder committed when the offender was under the age of 18 but who was indicted on or after August 1, 2017 serve at least 30 years of the sentence imposed in addition to satisfying other conditions before being eligible for parole.

Proposed law requires that persons serving a life sentence for conviction of the crime of first or second degree murder committed when the offender was under the age of 18 but who was indicted prior to August 1, 2017 serve at least 30 years of the sentence imposed in addition to satisfying other conditions before being eligible for parole.

Proposed law provides that in addition to the required service of 30 years of the sentence imposed, the offender meets the following conditions:

- (1) The offender has served 30 years of the sentence imposed.
- (2) The offender has not committed any major disciplinary offenses in the 12 consecutive months prior to the parole hearing date. A major disciplinary offense is an offense identified as a Schedule B offense by the Department of Public Safety and Corrections (DPS&C) in the Disciplinary Rules and Procedures for Adult Offenders.
- (3) The offender has completed the mandatory minimum of 100 hours of prerelease programming.
- (4) The offender has completed substance abuse treatment as applicable.
- (5) The offender has obtained a GED certification, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED certification due to a learning disability. If deemed incapable of obtaining a GED certification, the offender shall be required to complete at least one of the following:
 - (a) A literacy program.
 - (b) An adult basic education program.
 - (c) A job skills training program.
- (6) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the (DPS&C).
- (7) The offender has completed a reentry program to be determined by the (DPS&C).

Present law requires a court hearing be conducted to determine parole eligibility prior to sentencing and if the sentence to be imposed with or without parole eligibility. Provides for introduction of any aggravating or mitigating evidence that is relevant including the facts and circumstances of the crime, the offender's character, criminal history, level of family support, social history, and other factors deemed relevant by the court.

Proposed law provides for such hearings when the offender is indicted prior to August 1, 2017 and indicted on or after August 1, 2017.

Proposed law provides that if indicted on or after August 1, 2017 for first degree murder and the offender was under the age 18 at the time of commission of the offense, then authorizes the DA to file a notice of intent to seek a sentence of life imprisonment without possibility of parole within 180 days after the indictment. Provides that this hearing be conducted after conviction for first degree murder but prior to sentencing. Provides that if the DA fails to file this notice of intent, then sentence shall be imposed with parole eligibility without the need for a judicial determination but provides that if a court does determine that the sentence be imposed without parole eligibility, then the offender is not eligible for parole.

Proposed law provides that if indicted prior to August 1, 2017 for first or second degree murder and the offender was under the age of 18 at the time of the commission of the offense and if no hearing was held to determine imposition of sentence with or without parole eligibility, then authorizes the DA to file a notice of intent to seek a sentence of life imprisonment without the possibility of parole within ninety days of August 1, 2017. Provides that if timely filed, a hearing is to be conducted to determine whether the sentence is to be imposed with or without parole eligibility. If the court determines that the sentence be imposed with parole eligibility, the offender shall be eligible for parole pursuant to proposed law. Failure of the DA timely file the notice of intent, then the offender is eligible for parole pursuant to provisions for parole of first degree offenders without the need of a judicial determination. Provides that if the court determines that the sentence be imposed without parole eligibility, the offender shall not be eligible for parole.

Proposed law provides that if the offender was indicted prior to August 1, 2017, for the crime of first or second degree murder where the offender was under the age of 18 years at the time of the commission of the offense and a hearing was held prior to August 1, 2017 to determine whether the offender's sentence should be imposed with or without parole eligibility, the following shall apply:

- (1) If the court determined that the offender's sentence shall be imposed with parole eligibility, the offender shall be eligible for parole pursuant to proposed law (R.S. 15:574.4(G)).
- (2) If the court determined that the offender's sentence shall be imposed without parole eligibility, the offender shall not be eligible for parole.

With regard to the hearing for the judicial determination as to the offender's parole eligibility, proposed law provides that:

- (1) Expert witness testimony is only necessary as required by the court.
- (2) The sole purpose of the hearing is to determine whether the sentence shall be imposed with or without parole eligibility.
- (3) Requires the court to state for the record the considerations taken into account and the factual basis for its determination.

Effective August 1, 2017.

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

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