

2026 Regular Session

SENATE BILL NO. 215

BY SENATOR MCMATH

CRIMINAL PROCEDURE. Provides relative to the grounds for post conviction relief for inmates convicted by a non-unanimous jury. (gov sig)

1 AN ACT

2 To enact R.S. 15:574.2.2, relative to post conviction relief; to provide relative to the grounds
3 for post conviction relief for non-unanimous jury verdicts; to provide relative to time
4 limitations for post conviction relief when a petitioner has a conviction rendered by
5 a non-unanimous jury; to allow for parole eligibility for persons convicted by a
6 verdict rendered by a non-unanimous jury; to establish a special committee for cases
7 in which a non-unanimous jury verdict was rendered; to provide for an effective
8 date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 15:574.2.2 is hereby enacted to read as follows:

11 **§574.2.2. Non-unanimous jury convictions; special committee on parole**

12 **A.(1) The Special Committee on Parole for Non-unanimous Jury**
13 **Convictions, hereinafter referred to as the "special committee", is hereby**
14 **created in the Department of Public Safety and Corrections, which shall be**
15 **authorized to enforce the provisions of this Section. The special committee shall**
16 **consist of the following members:**

17 **(a) Three retired appellate court judges or supreme court justices**

1 appointed by the governor.

2 (b) One retired district attorney or assistant district attorney appointed
3 by the governor from a list of three nominations by the Louisiana District
4 Attorneys Association.

5 (c) One retired public defender or assistant public defender appointed
6 by the governor from a list of three nominations by the state public defender.

7 (2) In addition to the appointment of the special committee members, the
8 governor shall also appoint one alternate member from each of the categories
9 established by Paragraph (1) of this Subsection. These persons shall be of the
10 same qualifications as the special committee members and shall serve only in an
11 ad hoc capacity should any committee member be unable to serve for any
12 reason. The ad hoc member shall be from the same category as the member who
13 is unavailable to serve.

14 (3) All five special committee members shall be present for any hearing
15 on or in consideration of an application for relief. For all other administrative
16 purposes, four of the five special committee members shall constitute a quorum.

17 B.(1) The chairman of the special committee shall be appointed by the
18 governor. Additional officers may be elected by majority vote of the
19 membership of the committee. The salary of the special committee members
20 shall be the same as the salaries of the members of the Board of Pardons and
21 shall be established in the same manner.

22 (2) Ad hoc special committee members shall be paid a per diem at a rate
23 set by the special committee for services rendered due to the recusal or absence
24 of any committee member from any participation in any petitioner's application
25 or consideration.

26 C. All members appointed to the special committee shall be prohibited
27 from representing any petitioner or victim either directly or indirectly. Any
28 member of the special committee who has an existing personal, professional, or
29 financial transactions or who has had any previous personal, professional, or

1 financial transactions involving or relating to the petitioner or victim shall be
2 recused from any participation in consideration of that petitioner's application.

3 D. The special committee shall meet not less than once per month per
4 calendar year to consider applications filed by petitioners. The dates shall be
5 determined by the chairman. Notwithstanding any law to the contrary, persons
6 providing testimony may appear before the committee by means of
7 teleconference or telephone communication.

8 E. In accordance with the provisions of this Section, the special
9 committee shall have the following powers and duties:

10 (1) To determine whether the petitioner was convicted of an offense by
11 a non-unanimous jury, and, if so, then whether that conviction resulted in a
12 miscarriage of justice.

13 (2) To determine the specific conditions of release from custody of any
14 petitioner to whom parole was granted pursuant to this Section.

15 (3) To keep a record of its actions and notify each correctional facility of
16 the special committee's final determination relating to petitioner's application.

17 (4) To take testimony under oath at a hearing or by deposition. Under
18 no circumstance shall the victim or the victim's family be compelled to testify
19 at any hearing set or otherwise convened by the special committee or under the
20 provisions of this Section.

21 (5) To notify the district attorney of the judicial district, or prosecuting
22 authority in the parish where the conviction occurred, of the petitioner's
23 application to the special committee.

24 (6) To notify the district attorney of the judicial district, or prosecuting
25 authority in the parish where the conviction occurred, of the special committee's
26 final determination relating to the petitioner's application.

27 (7) To perform any additional duties necessary to enforce the provisions
28 of this Section.

29 F.(1)(a) Notwithstanding any other provision of law to the contrary, any

1 person currently incarcerated who alleges a conviction for an offense rendered
2 by a non-unanimous jury shall be entitled to file an application with the special
3 committee in accordance with the provisions of this Section, regardless of the
4 term of imprisonment imposed.

5 (b) The petitioner shall use the Uniform Application for Special Parole
6 Consideration approved by the Supreme Court of Louisiana. The application
7 shall be signed by the petitioner and be accompanied by a certified copy of the
8 entirety of the record of the proceedings relative to the petitioner's direct appeal
9 of the conviction on which the petitioner's application is based, and the
10 petitioner's affidavit that the allegations contained in the application are true
11 and accurate to the best of petitioner's information and belief. If no direct
12 appeal has been taken, the application shall be accompanied by a certified copy
13 of the trial court record.

14 (c) Failure of the petitioner to provide supporting documentation with
15 an application shall not be grounds for denial of the petitioner's application.
16 However, if the petitioner submits an application without providing the
17 required certified copy, the petitioner shall include in his affidavit that he
18 requested a certified copy of the entirety of the record of the proceedings
19 relative to the petitioner's direct appeal, or trial court record, of the conviction
20 on which the petitioner's application is based from the clerk of court from the
21 parish of conviction. Thereafter, upon receipt of the documentation from the
22 clerk of court, the petitioner shall be allowed to supplement his application
23 prior to any hearing on the petitioner's application.

24 (d) Any documents requested by a petitioner pursuant to Subparagraph
25 (c) of this Paragraph from the clerk of court of the parish of conviction shall be
26 made available by the clerk of court to the petitioner no later than ninety days
27 after the request is made. A petitioner requesting a certified copy of the record
28 on direct appeal or trial court record for purposes of submitting with an
29 application for relief pursuant to this Section, shall be deemed indigent for

1 purposes of the cost of production of the requested record. If the requested
2 documents are unavailable, the clerk of court shall certify the reasons why the
3 requested documents are unavailable and shall provide the certification to the
4 petitioner within ninety days of the request.

5 (e) The district attorney of the judicial district or prosecuting authority
6 in the parish where the conviction was obtained shall, in all instances, be
7 permitted to file with the special committee a written response to the
8 petitioner's application.

9 (2)(a) The petitioner shall have the burden of establishing by clear and
10 convincing evidence the non-unanimity of his conviction based exclusively upon
11 the existing certified copy of the entirety of the record submitted with the
12 application. If the petitioner is unable to establish that the verdict was
13 non-unanimous, the special committee shall summarily deny the petitioner's
14 application at a hearing without any further consideration, inquiry, or review
15 for relief under this Section. If the petitioner is able to establish that the verdict
16 was non-unanimous, the special committee shall then consider whether the
17 non-unanimous verdict resulted in a miscarriage of justice.

18 (b) In determining whether the non-unanimous jury verdict resulted in
19 a miscarriage of justice, evidence shall be limited to the certified copy of the
20 entirety of the record upon which the petitioner's application is based, any
21 testimony of the petitioner or victim, as provided by R.S. 46:1841 et seq., and
22 any written statement submitted by the district attorney of the judicial district
23 where the conviction was obtained. In its evaluation, the special committee may
24 also consider any of the following illustrative, non-exhaustive, non-mandatory
25 factors:

26 (i) Whether the non-unanimity was the result of juror votes to acquit.

27 (ii) Whether a juror voted to convict for a responsive verdict when the
28 petitioner was convicted of the offense charged.

29 (iii) Whether a juror voted to convict for the offense charged when the

1 petitioner was convicted of a responsive verdict.

2 (iv) The overall strength of the state's case.

3 (v) The length of deliberations.

4 (vi) The nature of the offense.

5 (vii) The assistance of counsel for the applicant at trial and on appeal.

6 (viii) Any indicia of racial animus in the prosecution of the petitioner's
7 case.

8 (c) If the petitioner is serving sentences for multiple convictions, the
9 petitioner shall only be eligible to make a single application to the special
10 committee pursuant to this Section for the conviction relative to the offense for
11 which he is serving the longest sentence. If the petitioner is serving a sentence
12 for multiple convictions under a single bill of information or indictment, the
13 special committee shall consider the issue of non-unanimity for all counts.

14 (3)(a) The special committee may not grant or deny parole without a
15 hearing on the petitioner's application. The special committee shall schedule an
16 application for hearing at the soonest available committee meeting, but in no
17 event prior to the receipt of the certified copy of the petitioner's record of the
18 proceedings upon which the petitioner's application is based. In addition to
19 notifying the petitioner that the matter has been set for hearing, the special
20 committee shall notify the district attorney in the judicial district where the
21 conviction occurred and the victim, or relative of a deceased victim, of the time
22 and date of the hearing.

23 (b) In all instances, a unanimous vote of all five members of the special
24 committee shall be required for both an affirmative finding that the petitioner's
25 conviction was the result of a non-unanimous jury verdict and that the
26 non-unanimous verdict resulted in a miscarriage of justice.

27 G.(1) The provisions of this Section shall be the exclusive and sole
28 remedy for any petitioner applying for relief on the basis of being convicted by
29 a non-unanimous verdict. However, a claim for relief pursuant to this Section

1 shall not preclude a petitioner from petitioning for relief under any other
2 provision allowed by law not related to the non-unanimous verdict issue.
3 Evidence of the non-unanimous verdict may be used at any other proceedings
4 not under the provisions of this Section subject to the limitations in the Code of
5 Evidence and Code of Criminal Procedure.

6 (2) Any grant or denial of parole by the special committee shall be
7 deemed as a final determination of the petitioner's application for special parole
8 consideration based on a non-unanimous jury verdict resulting in a miscarriage
9 of justice. A denial of the petitioner's application shall not be subject to appeal
10 or collateral attack nor shall the application be eligible for any reconsideration
11 or rehearing.

12 (3) All applications pursuant to this Section shall be filed within one year
13 of the effective date of this Section. The special committee shall not consider any
14 petitioner's application for parole filed thereafter pursuant to this Section.

15 (4) A grant or denial of parole pursuant to this Section may be a
16 consideration in any application made for a pardon by the petitioner when
17 eligible.

18 (5) If an application is granted resulting in parole release, the term of
19 supervised release shall be the remaining term of the original sentence of
20 conviction or as commuted by the governor.

21 (6) All qualified victims, as provided by R.S. 46:1841 et seq., shall be
22 afforded opportunity and access to all victim services available through the
23 Department of Public Safety and Corrections, victim services section,
24 throughout the entirety of the process from initial application through the
25 duration of any potential parole release.

26 H. The implementation of the provisions of this Section shall be subject
27 to the appropriation of funds by the legislature for this purpose.

28 Section 2. The provisions of Section 1 of this Act shall terminate three years after the
29 effective date of this Act.

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

(Adds R.S. 15:574.2.2)