

Regular Session, 2013

HOUSE BILL NO. 152

BY REPRESENTATIVE HAZEL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

JUVENILES: Provides relative to parole eligibility for juvenile offenders convicted of homicide offenses

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AN ACT

To amend and reenact R.S. 15:574.4(B)(1) and to enact R.S. 15:574.4(E) and Code of Criminal Procedure Article 878.1, relative to juvenile parole eligibility; to provide for parole eligibility for juveniles sentenced to life imprisonment without the possibility of parole for certain homicide offenses; to provide for conditions; to provide for a special sentencing hearing for juvenile offenders convicted of certain homicide offenses; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:574.4(B)(1) is hereby amended and reenacted and R.S. 15:574.4(E) is hereby enacted to read as follows:

§574.4. Parole; eligibility

* * *

B.(1) No person shall be eligible for parole consideration who has been convicted of armed robbery and denied parole eligibility under the provisions of R.S. 14:64. Except as provided in Paragraph (2) of this Subsection, and except as provided in ~~Subsection~~ Subsections D and E of this Section, no prisoner serving a life sentence shall be eligible for parole consideration until his life sentence has been commuted to a fixed term of years. No prisoner sentenced as a serial sexual offender shall be eligible for parole. No prisoner may be paroled while there is pending against him any indictment or information for any crime suspected of having been

1 committed by him while a prisoner. Notwithstanding any other provisions of law to
2 the contrary, a person convicted of a crime of violence and not otherwise ineligible
3 for parole shall serve at least eighty-five percent of the sentence imposed, before
4 being eligible for parole. The victim or victim's family shall be notified whenever
5 the offender is to be released provided that the victim or victim's family has
6 completed a Louisiana victim notice and registration form as provided in R.S.
7 46:1841 et seq., or has otherwise provided contact information and has indicated to
8 the Department of Public Safety and Corrections, Crime Victims Services Bureau,
9 that they desire such notification.

10 * * *

11 E.(1) Notwithstanding any provision of law to the contrary, any person
12 servng a sentence of life imprisonment for a conviction of first degree murder (R.S.
13 14:30) or second degree murder (R.S. 14:30.1) who was under the age of eighteen
14 years at the time of the commission of the offense shall be eligible for parole
15 consideration pursuant to the provisions of this Subsection if a judicial determination
16 has been made that the person is entitled to parole eligibility pursuant to Code of
17 Criminal Procedure Article 878.1 and all of the following conditions have been met:

18 (a) The offender has served fifty years of the sentence imposed.

19 (b) The offender has not committed any disciplinary offenses in the twelve
20 consecutive months prior to the parole eligibility date.

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

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

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

29 (i) A literacy program.

1 (ii) An adult basic education program.

2 (iii) A job skills training program.

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

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

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

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

14 Section 2. Code of Criminal Procedure Article 878.1 is hereby enacted to read as
15 follows:

16 §878.1. Sentencing hearing for juvenile offenders

17 A. In any case where an offender is to be sentenced to life imprisonment for
18 a conviction of first degree murder (R.S. 14:30) or second degree murder (R.S.
19 14:30.1) where the offender was under the age of eighteen years at the time of the
20 commission of the offense, a hearing shall be conducted prior to sentencing to
21 determine whether the sentence shall be imposed with or without parole eligibility.

22 B. At the hearing, the prosecution and defense shall be allowed to introduce
23 any aggravating and mitigating evidence that is relevant to the charged offense or the
24 character of the offender, including but not limited to the facts and circumstances of
25 the crime, the criminal history of the offender, the offender's level of family support,
26 social history, and such other factors as the court may deem relevant.

27 C. If the court determines that a sentence of life without the possibility of
28 parole for a particular offender is unconstitutionally excessive, the offender shall be
29 eligible for parole consideration pursuant to the provisions of R.S. 15:574.4(E).

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)]

Hazel

HB No. 152

Abstract: Provides for parole consideration for juveniles sentenced to life imprisonment for certain homicide offenses after a judicial determination of eligibility for such consideration and when certain conditions are met.

Present law provides that any offender who commits first degree murder or second degree murder who is under the age of 18 at the time of the commission of the offense shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

In the case, *Miller v. Alabama*, 132 S.Ct. 2455 (2012), the U.S. Supreme Court held that mandatory life imprisonment without parole for any offender under the age of 18 violates the 8th Amendment's prohibition on cruel and unusual punishment. Although the court did not prohibit a life sentence for juveniles convicted of homicide offenses, the court did require the sentencing court to consider the offender's youth and attendant characteristics as mitigating circumstances.

Proposed law retains present law but provides that any person serving a sentence of life imprisonment for a conviction of first degree murder or second degree murder who was under the age of 18 at the time of the commission of the offense shall be eligible for parole consideration if a judicial determination has been made that the person is entitled to parole eligibility and all of the following conditions have been met:

- (1) The offender has served 50 years of the sentence imposed.
- (2) The offender has not committed any disciplinary offenses in the 12 consecutive months prior to the parole eligibility date.
- (3) The offender has completed a minimum of 100 hours of prerelease programming.
- (4) The offender has completed substance abuse treatment as applicable.
- (5) The offender has obtained a GED or, in certain circumstances, has completed a literacy program, an adult basic education program, or 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 DPS&C.
- (7) The offender has completed a reentry program to be determined by DPS&C.

Proposed law further provides that for such parole decisions, the board shall meet in a three-member panel and 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 any other relevant evidence pertaining to the offender.

Proposed law requires the panel to render specific findings of fact in support of its decision.

Proposed law provides for a sentencing hearing for an offender who is to be sentenced to life imprisonment for a conviction of first degree murder or second degree murder where the offender was under the age of 18 at the time of the commission of the offense to determine

whether the sentence shall be imposed with or without parole eligibility. Upon consideration of any aggravating or mitigating evidence relevant to the charged offense or the character of the offender, if the court determines that a sentence of life without the possibility of parole for a particular offender is unconstitutionally excessive, the offender shall be eligible for parole consideration pursuant to the provisions of proposed law.

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