

2022 Regular Session

HOUSE BILL NO. 404

BY REPRESENTATIVE NELSON

JUVENILES: Provide relative to parole eligibility for juvenile offenders

1 AN ACT

2 To amend and reenact R.S. 14:30(C)(2) and 30.1(B) and R.S. 15:574.4(B)(1), (D), (E), and
3 (F), to enact R.S. 14:30(C)(3), and to repeal Code of Criminal Procedure Article
4 878.1 and R.S. 15:574.4(G), (H), (I), and (J), relative to parole eligibility for juvenile
5 offenders; to ensure parole eligibility for all juvenile offenders; to provide for an
6 effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:30(C)(2) and 30.1(B) are hereby amended and reenacted and R.S.
9 14:30(C)(3) is hereby enacted to read as follows:

10 §30. First degree murder

11 * * *

12 C.

13 * * *

14 (2) If Except as provided in Paragraph (3) of this Subsection, if the district
15 attorney does not seek a capital verdict, the offender shall be punished by life
16 imprisonment at hard labor without benefit of parole, probation or suspension of
17 sentence. The provisions of Code of Criminal Procedure Article 782 relative to cases
18 in which punishment is necessarily confinement at hard labor shall apply.

1 sentence imposed, before being eligible for parole. The victim or victim's family
2 shall be notified whenever the offender is to be released provided that the victim or
3 victim's family has completed a Louisiana victim notice and registration form as
4 provided in R.S. 46:1841 et seq., or has otherwise provided contact information and
5 has indicated to the Department of Public Safety and Corrections, Crime Victims
6 Services Bureau, that they desire such notification.

7 * * *

8 ~~D.(1) Notwithstanding any provision of law to the contrary, any person~~
9 ~~servng a sentence of life imprisonment who was under the age of eighteen years at~~
10 ~~the time of the commission of the offense, except for a person serving a life sentence~~
11 ~~for a conviction of first degree murder (R.S. 14:30) or second degree murder (R.S.~~
12 ~~14:30.1), shall be eligible for parole consideration pursuant to the provisions of this~~
13 ~~Subsection if all of the following conditions have been met:~~

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

15 ~~(b) The offender has not committed any major disciplinary offenses in the~~
16 ~~twelve consecutive months prior to the parole hearing date. A major disciplinary~~
17 ~~offense is an offense identified as a Schedule B offense by the Department of Public~~
18 ~~Safety and Corrections in the Disciplinary Rules and Procedures for Adult Offenders.~~

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

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

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

27 ~~(i) A literacy program.~~

28 ~~(ii) An adult basic education program.~~

29 ~~(iii) A job skills training program.~~

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

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

6 ~~(h) If the offender was convicted of aggravated or first degree rape, he shall~~
7 ~~be designated a sex offender and upon release shall comply with all sex offender~~
8 ~~registration and notification provisions as required by law.~~

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

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

16 ~~E.(1) Notwithstanding any provision of law to the contrary and except as~~
17 ~~provided in Subsection G of this Section, any person serving a sentence of life~~
18 ~~imprisonment for a conviction of first degree murder (R.S. 14:30) who was under the~~
19 ~~age of eighteen years at the time of the commission of the offense and whose~~
20 ~~indictment for the offense is on or after August 1, 2017, shall be eligible for parole~~
21 ~~consideration pursuant to the provisions of this Subsection if a judicial determination~~
22 ~~has been made that the person is entitled to parole eligibility pursuant to Code of~~
23 ~~Criminal Procedure Article 878.1(A) and all of the following conditions have been~~
24 ~~met:~~

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

26 ~~(b) The offender has not committed any major disciplinary offenses in the~~
27 ~~twelve consecutive months prior to the parole hearing date. A major disciplinary~~
28 ~~offense is an offense identified as a Schedule B offense by the Department of Public~~
29 ~~Safety and Corrections in the Disciplinary Rules and Procedures for Adult Offenders.~~

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

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

4 ~~(e) The offender has obtained a GED certification, unless the offender has~~
5 ~~previously obtained a high school diploma or is deemed by a certified educator as~~
6 ~~being incapable of obtaining a GED certification due to a learning disability. If the~~
7 ~~offender is deemed incapable of obtaining a GED certification, the offender shall~~
8 ~~complete at least one of the following:~~

9 ~~(i) A literacy program.~~

10 ~~(ii) An adult basic education program.~~

11 ~~(iii) A job skills training program.~~

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

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

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

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

23 ~~F.(1) Notwithstanding any provision of law to the contrary and except as~~
24 ~~provided in Subsection G of this Section, any person serving a sentence of life~~
25 ~~imprisonment for a conviction of second degree murder (R.S. 14:30.1) who was~~
26 ~~under the age of eighteen years at the time of the commission of the offense and~~
27 ~~whose indictment for the offense is on or after August 1, 2017, shall be eligible for~~
28 ~~parole consideration if all of the following conditions have been met:~~

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

1 ~~(b) The offender has not committed any major disciplinary offenses in the~~
2 ~~twelve consecutive months prior to the parole hearing date. A major disciplinary~~
3 ~~offense is an offense identified as a Schedule B offense by the Department of Public~~
4 ~~Safety and Corrections in the Disciplinary Rules and Procedures for Adult Offenders.~~

5 ~~(c) The offender has completed the mandatory minimum of one hundred~~
6 ~~hours of pre-release programming in accordance with R.S. 15:827.1.~~

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

8 ~~(e) The offender has obtained a GED certification, unless the offender has~~
9 ~~previously obtained a high school diploma or is deemed by a certified educator as~~
10 ~~being incapable of obtaining a GED certification due to a learning disability. If the~~
11 ~~offender is deemed incapable of obtaining a GED certification, the offender shall~~
12 ~~complete at least one of the following:~~

13 ~~(i) A literacy program.~~

14 ~~(ii) An adult basic education program.~~

15 ~~(iii) A job skills training program.~~

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

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

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

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

27 ~~G.(1) Notwithstanding any provision of law to the contrary, any person~~
28 ~~-serving a sentence of life imprisonment for a conviction of first degree murder (R.S.~~
29 ~~14:30) or second degree murder (R.S. 14:30.1) who was under the age of eighteen~~

1 ~~years at the time of the commission of the offense and whose indictment for the~~
2 ~~offense was prior to August 1, 2017, shall be eligible for parole consideration~~
3 ~~pursuant to the provisions of this Subsection if a judicial determination has been~~
4 ~~made that the person is entitled to parole eligibility pursuant to Code of Criminal~~
5 ~~Procedure Article 878.1(B) and all of the following conditions have been met:~~

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

7 (b) ~~The offender has not committed any major disciplinary offenses in the~~
8 ~~twelve consecutive months prior to the parole hearing date. A major disciplinary~~
9 ~~offense is an offense identified as a Schedule B offense by the Department of Public~~
10 ~~Safety and Corrections in the Disciplinary Rules and Procedures for Adult Offenders.~~

11 (c) ~~The offender has completed the mandatory minimum of one hundred~~
12 ~~hours of pre-release programming in accordance with R.S. 15:827.1.~~

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

14 (e) ~~The offender has obtained a GED certification, unless the offender has~~
15 ~~previously obtained a high school diploma or is deemed by a certified educator as~~
16 ~~being incapable of obtaining a GED certification due to a learning disability. If the~~
17 ~~offender is deemed incapable of obtaining a GED certification, the offender shall~~
18 ~~complete at least one of the following:~~

19 (i) ~~A literacy program.~~

20 (ii) ~~An adult basic education program.~~

21 (iii) ~~A job skills training program.~~

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

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

27 (2) ~~For each offender eligible for parole consideration pursuant to the~~
28 ~~provisions of this Subsection, the board shall meet in a three-member panel, and each~~
29 ~~member of the panel shall be provided with and shall consider a written evaluation~~

1 of the offender by a person who has expertise in adolescent brain development and
2 behavior and any other relevant evidence pertaining to the offender.

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

4 H.(1) Notwithstanding any provision of law to the contrary, an offender
5 serving a life sentence for second degree murder (R.S. 14:30.1), shall be eligible for
6 parole consideration pursuant to the provisions of this Subsection if all of the
7 following conditions are met:

8 (a) The offender committed the offense after July 2, 1973, and prior to
9 June 29, 1979.

10 (b) The offender has served at least forty years of the sentence imposed.

11 (2) An offender who has met the requirements of Paragraph (1) of this
12 Subsection and is granted a hearing before the committee on parole shall be released
13 on parole if a ~~five member~~ five-member panel of the committee ~~vote~~ votes
14 unanimously to grant parole.

15 ~~H.E.~~ On or before August 1, 2018, and no later than August first of each year
16 following, the Department of Public Safety and Corrections shall submit an annual
17 report to the legislature relative to offenders released from custody during the
18 preceding year pursuant to the provisions of this Section. This report shall include
19 the following information:

20 (1) The name and offender number of the paroled offender.

21 (2) The date on which the offender was released on parole.

22 (3) The offense for which the offender was incarcerated at the time of his
23 release, including whether the offense was a crime of violence as defined in R.S.
24 14:2(B) or a sex offense as defined in R.S. 15:541.

25 (4) A grid which shows the earliest release date that offenders would have
26 been eligible for release notwithstanding the provisions of Section 3 of Act No. 280
27 of the 2017 Regular Session of the Legislature.

1 (5) Whether the offender obtained a GED certification or completed a
2 literacy program, an adult basic education program, or a job skills training program
3 before being paroled.

4 (6) Any information relative to juvenile offenders that is exempt from
5 release pursuant to a public records request or otherwise considered confidential by
6 law shall be redacted from the report provided for by this Subsection.

7 ~~F.~~(1) Notwithstanding any provision of law to the contrary, ~~and except as~~
8 ~~provided in Subsections D, E, F, G, and H of this Section, and unless eligible at an~~
9 earlier date, any person serving a term or terms of imprisonment that result in a
10 period of incarceration of twenty-five years or more and who was under the age of
11 eighteen years at the time of the commission of the offense shall be eligible for
12 parole consideration pursuant to the provisions of this Subsection if all of the
13 following conditions have been met:

14 (a) The offender has served at least twenty-five years of the sentence
15 imposed.

16 (b) The offender has not committed any major disciplinary offenses in the
17 twelve consecutive months prior to the parole hearing date. A major disciplinary
18 offense is an offense identified as a Schedule B offense by the Department of Public
19 Safety and Corrections in the Disciplinary Rules and Procedures for Adult Offenders.

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

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

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

28 (i) A literacy program.

29 (ii) An adult basic education program.

1 (iii) A job skills training program.

2 (iv) A GED certification.

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 committee on parole shall meet in a three-member
10 panel, shall consider the impact that the lack of brain development in adolescence
11 has on culpability and behavior, a juvenile offender's unique ability to mature and
12 grow, and any other relevant evidence or testimony pertaining to the offender.

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

14 (4) The provisions of this Subsection shall ~~not apply to a person serving a~~
15 ~~sentence of life imprisonment for a conviction of R.S. 14:30, 30.1, 42, or 44~~ be
16 applicable both prospectively and retroactively to all persons under the age of
17 eighteen years at the time of the commission of the offense or offenses. The phrase
18 "term or terms of imprisonment" as used in this Subsection explicitly includes terms
19 of life imprisonment, consistent with its previous use and plain meaning.

20 * * *

21 Section 3. Code of Criminal Procedure Article 878.1 and R.S. 15:574.4(G), (H), (I),
22 and (J) are hereby repealed in their entirety.

23 Section 4. This Act shall become effective upon signature by the governor or, if not
24 signed by the governor, upon expiration of the time for bills to become law without signature
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
27 effective on the day following such approval.

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)]

HB 404 Original

2022 Regular Session

Nelson

Abstract: Provides for parole eligibility for juvenile offenders.

Present law provides parole eligibility for certain juvenile offenders as follows:

- (1) Any person serving a sentence of **life imprisonment for a non-homicide offense** who was under the age of 18 years at the time of the commission of the offense, shall be eligible for parole consideration upon serving **25 years** of the sentence imposed and meeting certain conditions set forth in present law. (R.S. 15:574.4(D))
- (2) Any person serving a sentence of **life imprisonment for a conviction of first degree murder** (R.S. 14:30) who was under the age of 18 years at the time of the commission of the offense and whose **indictment for the offense is on or after Aug. 1, 2017**, shall be eligible for parole consideration if a **judicial determination has been made** that the person is entitled to parole eligibility, the offender has served **25 years** of the sentence imposed, and the offender meets certain conditions set forth in present law. (R.S. 15:574.4(E))
- (3) 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 18 years at the time of the commission of the offense and whose **indictment for the offense is on or after Aug. 1, 2017**, shall be eligible for parole consideration upon serving **25 years** of the sentence imposed and meeting certain conditions set forth in present law. (R.S.15:574.4(F))
- (4) Any person serving a sentence of **life imprisonment for a conviction of first or second degree murder** (R.S. 14:30 or 30.1) who was under the age of 18 years at the time of the commission of the offense and whose **indictment for the offense was prior to Aug. 1, 2017**, shall be eligible for parole consideration if a **judicial determination has been made** that the person is entitled to parole eligibility, the offender has served **25 years** of the sentence imposed, and the offender meets certain conditions set forth in present law. (R.S. 15:574.4(G))
- (5) Any person serving a term or terms of imprisonment that result in a period of incarceration of 25 years or more and who was under the age of 18 years at the time of the commission of the offense shall be eligible for parole consideration upon serving at least 25 years of the sentence imposed and upon meeting certain conditions set forth in present law. (R.S. 15:574.4(J))

Present law further specifies that parole eligibility pursuant to this provision of present law (R.S.15:574.4(J)) does not apply to a person serving a sentence of life imprisonment for a conviction of first degree murder (R.S. 14:30), second degree murder (R.S. 14:30.1), aggravated or first degree rape (R.S. 14:42), or aggravated kidnapping (R.S. 14:44).

Proposed law eliminates life imprisonment without the benefit of parole for juveniles (R.S. 15:574.4(D) through (G)).

Present law (R.S.15:574.4(J)) requires that an offender obtain a GED certification or requires the offender to complete a literacy program, an adult basic education program, or a job skills program if deemed incapable of obtaining a GED certification as one of the conditions

specified in present law that shall be met in order for the offender to be eligible for parole consideration.

Proposed law amends present law to provide the option to obtain a GED certification or complete a literacy program, an adult basic education program, or a job skills program as one of the conditions specified in present law without having to be deemed incapable of obtaining a GED certification.

Present law (C.Cr.P. Art. 878.1) requires a sentencing hearing to be held when an offender 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 in accordance with present law.

Present law provides that sentences imposed without parole eligibility should normally be reserved for the worst offenders and the worst cases and present law provides for the introduction of aggravating and mitigating evidence at the hearing.

Present law (C.Cr.P. Art. 878.1) provides:

- (1) If an offender is indicted on or after Aug. 1, 2017, for the crime of first degree murder where the offender was under the age of 18 years at the time of the commission of the offense, then the district attorney may file a notice of intent to seek a sentence of life imprisonment without the possibility of parole within 180 days after the indictment. If the district attorney timely files the notice of intent, a hearing must be conducted to determine whether the sentence is to be imposed with or without parole eligibility. If the court determines that the sentence is to be imposed without parole eligibility, then the defendant is not eligible for parole. If the court determines that the offender is eligible for parole or if the district attorney fails to timely file the notice of intent, then the offender will be eligible for parole pursuant to present law, which requires certain conditions to be met, including the condition that the offender is required to serve 25 years of the sentence imposed.
- (2) If an offender is indicted on or after Aug. 1, 2017, for the crime of second degree murder where the offender was under the age of 18 years at the time of the commission of the offense, then the offender is eligible for parole pursuant to present law, which requires certain conditions to be met, including the condition that the offender be required to serve 25 years of the sentence imposed.
- (3) If an offender was indicted prior to Aug. 1, 2017, for the crime of first or second degree murder where the offender was under the age of 18 at the time of the commission of the offense and a hearing was not held prior to Aug. 1, 2017, to determine whether the offender's sentence should be imposed with or without parole eligibility, then the district attorney may file a notice of intent to seek a sentence a life imprisonment without the possibility of parole within 90 days of Aug. 1, 2017. If the district attorney timely files the notice of intent, 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 is to be imposed without parole eligibility, then the offender is not eligible for parole. If the court determines that the sentence is to be imposed with parole eligibility or if the district attorney fails to timely file the notice of intent, then the offender will be eligible for parole pursuant to present law, which requires certain conditions to be met, including the condition that the offender serve 25 years of the sentence imposed.
- (4) If an offender was indicted prior to Aug. 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 to determine whether the

offender's sentence should be imposed with or without parole eligibility, then the following apply:

- (a) If the court determined that the offender's sentence was to be imposed with parole eligibility, then the offender is eligible for parole pursuant to present law.
- (b) If the court determined that the offender's sentence was to be imposed without parole eligibility, then the offender is not be eligible for parole.

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

- (1) The admissibility of expert witness testimony in these matters is to be governed by the Code of Evidence.
- (2) The sole purpose of the hearing is to determine whether the sentence will be imposed with or without parole eligibility.
- (3) The court must state for the record the considerations taken into account and the factual basis for its determination.

Proposed law repeals present law (C.Cr.P. Art. 878.1).

Present law (R.S. 14:30) provides that if the district attorney does not seek a capital verdict in a first degree murder case, the offender shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Present law (R.S. 14:30.1) further provides that whoever commits the crime of second degree murder shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Proposed law retains present law regarding first and second degree murder but specifies that if the offender was under the age of 18 at the time of the commission of the offense, the offender shall be punished by life imprisonment at hard labor without benefit of probation or suspension of sentence.

Specifies that proposed law shall have retroactive and prospective application.

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

(Amends R.S. 14:30(C)(2) and 30.1(B) and R.S. 15:574.4(B)(1), (D), (E), and (F); Adds R.S. 14:30(C)(3); Repeals C.Cr.P. Art. 878.1 and R.S. 15:574.4(G), (H), (I), and (J))