

SENATE FLOOR AMENDMENTS

2025 Regular Session

Amendments proposed by Senator McMath to Engrossed Senate Bill No. 218 by Senator Duplessis

AMENDMENT NO. 1

Delete the set of Senate Floor Amendments (SFASB218 539 1220) proposed by Senator Duplessis and adopted by the Senate on May 7, 2025.

AMENDMENT NO. 2

Delete the set of Senate Floor Amendments (SFLBSB218 2395 1179) proposed by Senator Miller on behalf of the Legislative Bureau and adopted by the Senate on May 7, 2025.

AMENDMENT NO. 3

On page 1, delete lines 2 and 3 and insert "To enact R.S. 15:574.2.2, relative to"

AMENDMENT NO. 4

On page 1, line 5, after "verdict;" delete the remainder of the line and delete line 6 and insert "to allow for parole eligibility for persons convicted by a verdict rendered by a non-unanimous jury; to establish a review board for cases in which a non-unanimous jury verdict was rendered;"

AMENDMENT NO. 5

On page 1, delete lines 9 through 17 and on page 2, delete lines 1 through 21 and insert the following:

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

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

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

(a) Three retired appellate court judges or supreme court justices appointed by the governor.

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

(c) One retired public defender or assistant public defender appointed by the governor from a list of three nominations by the Louisiana Public Defender Board.

(2) In addition to the appointment of the special committee members, the governor shall also appoint one alternate member from each of the categories established by Subparagraphs (1)(a), (b), and (c) of this Subsection. This member shall be of the same qualifications as the special committee members and shall only serve in an ad hoc capacity should any committee member be unable to serve for any reason. The ad hoc member shall be from the same category as the member who is unavailable to serve.

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

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

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

5 C. All members appointed to the special committee shall be prohibited from
 6 representing any petitioner or victim either directly or indirectly. Any member of the
 7 special committee who has or had personal, professional, or financial transactions
 8 involving or relating to the petitioner or victim shall be recused from any participation
 9 in consideration of that petitioner's application.

10 D. The special committee shall meet not less than once per month per calendar
 11 year to consider applications filed by petitioners. Such dates shall be determined by
 12 the chairman. Notwithstanding any law to the contrary, persons providing testimony
 13 may appear before the committee by means of teleconference or telephone
 14 communication.

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

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

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

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

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

28 (5) To notify the district attorney of the judicial district or the prosecuting
 29 authority in the parish where the conviction occurred of the petitioner's application to
 30 the special committee.

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

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

36 F.(1)(a) Notwithstanding any provision of law to the contrary, any person
 37 currently incarcerated who alleges a conviction for an offense rendered by a
 38 non-unanimous jury shall be entitled to file an application with the special committee
 39 under the provisions of this Section, regardless of the term of imprisonment imposed.

40 (b) The petitioner shall use the Uniform Application for Special Parole
 41 Consideration approved by the Supreme Court of Louisiana. The application shall be
 42 signed by the petitioner and be accompanied by a certified copy of the entirety of the
 43 record of the proceedings relative to the petitioner's direct appeal of the conviction on
 44 which the petitioner's application is based and the petitioner's affidavit that the
 45 allegations contained in the application are true and accurate to the best of petitioner's
 46 information and belief. If no direct appeal has been taken, the application shall be
 47 accompanied by a certified copy of the trial court record.

48 (c) Failure of the petitioner to provide supporting documentation with an
 49 application shall not be grounds for denial of the petitioner's application. However, if
 50 the petitioner submits an application without providing the required certified copy, the
 51 petitioner shall include in his affidavit that he requested a certified copy of the entirety
 52 of the record of the proceedings relative to the petitioner's direct appeal, or trial court
 53 record, of the conviction on which the petitioner's application is based from the clerk
 54 of court from the parish of conviction. Thereafter, upon receipt of such documentation
 55 from the clerk of court, the petitioner shall be allowed to supplement his application
 56 prior to any hearing on the petitioner's application.

57 (d) Any documents requested by a petitioner pursuant to Subparagraph (1)(c)
 58 of this Subsection from the clerk of court of the parish of conviction shall be made
 59 available by the clerk of court to the petitioner no later than ninety days after the
 60 request is made. A petitioner requesting a certified copy of the record on direct appeal
 61 or trial court record for purposes of submitting with an application for relief pursuant
 62 to this Section shall be deemed indigent for purposes of the cost of production of the

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

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

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

15 (b) In determining whether the non-unanimous jury verdict resulted in a
 16 miscarriage of justice, evidence shall be limited to the certified copy of the entirety of
 17 the record upon which the petitioner's application is based, any testimony of the
 18 petitioner or victim, as provided by R.S. 46:1842, et seq., and any written statement
 19 submitted by the district attorney of the judicial district where the conviction was
 20 obtained. In its evaluation, the special committee may also consider any of the
 21 following illustrative, non-exhaustive, non-mandatory factors:

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

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

25 (iii) Whether a juror voted to convict for the offense charged when the
 26 petitioner was convicted of a responsive verdict.

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

28 (v) The length of deliberations.

29 (vi) The nature of the offense.

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

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

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

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

46 (b) Except as provided for in Subparagraph (c) of this Paragraph, three of the
 47 five special committee members shall be required for both an affirmative finding that
 48 the petitioner's conviction was the result of a non-unanimous jury verdict and that the
 49 non-unanimous verdict resulted in a miscarriage of justice.

50 (c) In all instances where the petitioner is serving a life sentence, a unanimous
 51 vote of the special committee shall be required for both an affirmative finding that the
 52 petitioner's conviction was the result of a non-unanimous jury verdict and that the
 53 non-unanimous verdict resulted in a miscarriage of justice.

54 G.(1) The provisions of this Section shall be the exclusive and sole remedy for
 55 any petitioner applying for relief on the basis of being convicted by a non-unanimous
 56 verdict. However, a claim for relief pursuant to this Section shall not preclude a
 57 petitioner from petitioning for relief under any other provision allowed by law not
 58 related to the non-unanimous verdict issue. Evidence of the non-unanimous verdict
 59 may be used at any other proceedings not under the provisions of this Section subject
 60 to the limitations in the Code of Evidence.

61 (2) Any grant or denial of parole by the special committee shall be deemed as
 62 a final determination of the petitioner's application for special parole consideration

1 based on a non-unanimous jury verdict resulting in a miscarriage of justice. A denial
2 of the petitioner's application shall not be subject to appeal or collateral attack nor
3 shall the application be eligible for any reconsideration or rehearing.

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

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

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

12 (6) Upon the completion of a minimum of one-half of the term of parole
13 supervision or twenty-five years, whichever is less, the offender may subsequently
14 petition the committee on parole for consideration of early termination of parole
15 supervision, as provided by 15:574.7(E).

16 (7) All qualified victims, as provided by R.S. 46:1842 et seq., shall be afforded
17 opportunity and access to all victim services available through the Department of
18 Public Safety and Corrections Victim Services section throughout the entirety of the
19 process from initial application through the duration of any potential parole release.

20 Section 2. The provisions of Section 1 of this Act shall terminate either three years
21 after the effective date of this Act or upon a ruling by the Louisiana Supreme Court that the
22 holding in Ramos v. Louisiana, 140 S. Ct. 1390, 206 L.Ed.2d 583 (2020), is retroactive as
23 a matter of Louisiana law, whichever occurs first. Any petitioner who has made application
24 for or has availed himself of the relief provided by Section 1 of this Act shall not be
25 prohibited from obtaining any additional relief afforded him resulting from such a ruling by
26 the Louisiana Supreme Court."