

SENATE BILL NO. 16

BY SENATOR CLAITOR

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

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AN ACT

To amend and reenact R.S. 15:574.4(D)(1)(a) and (2) and (E)(1)(introductory paragraph) and (a) and Code of Criminal Procedure Article 878.1 and to enact R.S. 15:574.4(F) and (G), relative to juvenile parole eligibility; to provide relative to parole eligibility for juveniles who commit certain homicide offenses; to provide relative to the judicial determination of parole eligibility; to provide relative to parole eligibility for juveniles sentenced to life imprisonment for non-homicide offenses; to provide for conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:574.4(D)(1)(a) and (2) and (E)(1)(introductory paragraph) and (a) are hereby amended and reenacted and R.S. 15:574.4(F) and (G) are hereby enacted to read as follows:

§574.4. Parole; eligibility; **juvenile offenders**

* * *

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

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

* * *

(2) For each offender eligible for parole consideration pursuant to the

1 provisions of this Subsection, the ~~board~~ **committee on parole** shall meet in a three-
 2 member panel, and each member of the panel shall be provided with and shall
 3 consider a written evaluation of the offender by a person who has expertise in
 4 adolescent brain development and behavior and any other relevant evidence
 5 pertaining to the offender.

6 * * *

7 E.(1) Notwithstanding any provision of law to the contrary **and except as**
 8 **provided in Subsection G of this Section**, any person serving a sentence of life
 9 imprisonment for a conviction of first degree murder (R.S. 14:30) ~~or second degree~~
 10 ~~murder (R.S. 14:30.1)~~ who was under the age of eighteen years at the time of the
 11 commission of the offense **and whose indictment for the offense is on or after**
 12 **August 1, 2017**, shall be eligible for parole consideration pursuant to the provisions
 13 of this Subsection if a judicial determination has been made that the person is
 14 entitled to parole eligibility pursuant to Code of Criminal Procedure Article 878.1(A)
 15 and all of the following conditions have been met:

16 (a) The offender has served ~~thirty-five~~ **twenty-five** years of the sentence
 17 imposed.

18 * * *

19 **F.(1) Notwithstanding any provision of law to the contrary and except**
 20 **as provided in Subsection G of this Section, any person serving a sentence of life**
 21 **imprisonment for a conviction of second degree murder (R.S. 14:30.1) who was**
 22 **under the age of eighteen years at the time of the commission of the offense and**
 23 **whose indictment for the offense is on or after August 1, 2017, shall be eligible**
 24 **for parole consideration if all of the following conditions have been 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**
 27 **the twelve consecutive months prior to the parole hearing date. A major**
 28 **disciplinary offense is an offense identified as a Schedule B offense by the**
 29 **Department of Public Safety and Corrections in the Disciplinary Rules and**
 30 **Procedures for Adult Offenders.**

1 (c) The offender has completed the mandatory minimum of one hundred
2 hours of pre-release 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
5 has previously obtained a high school diploma or is deemed by a certified
6 educator as being incapable of obtaining a GED certification due to a learning
7 disability. If the offender is deemed incapable of obtaining a GED certification,
8 the offender shall 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
13 a validated risk assessment instrument approved by the secretary of the
14 Department of Public Safety and Corrections.

15 (g) The offender has completed a reentry program to be determined by
16 the 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
19 each member of the panel shall be provided with and shall consider a written
20 evaluation of the offender by a person who has expertise in adolescent brain
21 development and behavior and any other relevant evidence pertaining to the
22 offender.

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

25 G.(1) Notwithstanding any provision of law to the contrary, any person
26 -serving a sentence of life imprisonment for a conviction of first degree murder
27 (R.S. 14:30) or second degree murder (R.S. 14:30.1) who was under the age of
28 eighteen years at the time of the commission of the offense and whose
29 indictment for the offense was prior to August 1, 2017, shall be eligible for
30 parole consideration pursuant to the provisions of this Subsection if a judicial

1 determination has been made that the person is entitled to parole eligibility
2 pursuant to Code of Criminal Procedure Article 878.1(B) and all of the
3 following conditions have been met:

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

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

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

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

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

18 (i) A literacy program.

19 (ii) An adult basic education program.

20 (iii) A job skills training program.

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

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

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

1 offender.

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

4 Section 2. Code of Criminal Procedure Article 878.1 is hereby amended and
5 reenacted to read as follows:

6 Art. 878.1. ~~Sentencing hearing~~ Hearing to determine parole eligibility for certain
7 juvenile offenders

8 A. ~~In any case where an~~ If an offender is indicted on or after August 1,
9 2017, for the crime ~~to be sentenced to life imprisonment for a conviction of first~~
10 ~~degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1) where the~~
11 ~~offender was under the age of eighteen years at the time of the commission of the~~
12 ~~offense,~~ the district attorney may file a notice of intent to seek a sentence of life
13 imprisonment without possibility of parole within one hundred eighty days after
14 the indictment. If the district attorney timely files the notice of intent, a hearing
15 shall be conducted after conviction and prior to sentencing to determine whether
16 the sentence shall be imposed with or without parole eligibility. If the court
17 determines that the sentence shall be imposed with parole eligibility, the
18 offender shall be eligible for parole pursuant to the provisions of R.S. 15:574.4(E).
19 If the district attorney fails to timely file the notice of intent, the sentence shall
20 be imposed with parole eligibility and the offender shall be eligible for parole
21 pursuant to the provisions of R.S. 15:574.4(E) without the need of a judicial
22 determination pursuant to the provisions of this Article. If the court determines
23 that the sentence shall be imposed without parole eligibility, the offender shall
24 not be eligible for parole.

25 B.(1) If an offender was indicted prior to August 1, 2017, for the crime
26 of first degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1)
27 where the offender was under the age of eighteen years at the time of the
28 commission of the offense and a hearing was not held pursuant to this Article
29 prior to August 1, 2017, to determine whether the offender's sentence should be
30 imposed with or without parole eligibility, the district attorney may file a notice

1 of intent to seek a sentence of life imprisonment without the possibility of parole
2 within ninety days of August 1, 2017. If the district attorney timely files the
3 notice of intent, a hearing shall be conducted to determine whether the sentence
4 shall be imposed with or without parole eligibility. If the court determines that
5 the sentence shall be imposed with parole eligibility, the offender shall be
6 eligible for parole pursuant to R.S. 15:574.4(G). If the district attorney fails to
7 timely file the notice of intent, the offender shall be eligible for parole pursuant
8 to R.S. 15:574.4(E) without the need of a judicial determination pursuant to the
9 provisions of this Article. If the court determines that the sentence shall be
10 imposed without parole eligibility, the offender shall not be eligible for parole.

11 (2) If an offender was indicted prior to August 1, 2017, for the crime of
12 first degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1) where
13 the offender was under the age of eighteen years at the time of the commission
14 of the offense and a hearing was held pursuant to this Article prior to August 1,
15 2017, the following shall apply:

16 (a) If the court determined at the hearing that was held prior to
17 August 1, 2017, that the offender's sentence shall be imposed with parole
18 eligibility, the offender shall be eligible for parole pursuant to R.S. 15:574.4(G).

19 (b) If the court determined at the hearing that was held prior to
20 August 1, 2017, that the offender's sentence shall be imposed without parole
21 eligibility, the offender shall not be eligible for parole.

22 B-C. At the hearing, the prosecution and defense shall be allowed to
23 introduce any aggravating and mitigating evidence that is relevant to the charged
24 offense or the character of the offender, including but not limited to the facts and
25 circumstances of the crime, the criminal history of the offender, the offender's level
26 of family support, social history, and such other factors as the court may deem
27 relevant. The admissibility of expert witness testimony in these matters shall be
28 governed by Chapter 7 of the Code of Evidence. Sentences imposed without
29 parole eligibility should normally be reserved for the worst offenders and the worst
30 cases.

1 **D. The sole purpose of the hearing is to determine whether the sentence**
2 **shall be imposed with or without parole eligibility. The court shall state for the**
3 **record the considerations taken into account and the factual basis for its**
4 **determination. Sentences imposed without parole eligibility and determinations**
5 **that an offender is not entitled to parole eligibility should normally be reserved**
6 **for the worst offenders and the worst cases.**

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____