

1 (3) If the offender was under the age of eighteen years at the time of the
2 commission of the offense, the offender shall be punished by life imprisonment at
3 hard labor without benefit of probation or suspension of sentence.

4 * * *

5 §30.1. Second degree murder

6 * * *

7 B.(1) ~~Whoever~~ Except as provided in Paragraph (2) of this Subsection,
8 whoever commits the crime of second degree murder shall be punished by life
9 imprisonment at hard labor without benefit of parole, probation, or suspension of
10 sentence.

11 (2) If the offender was under the age of eighteen years at the time of the
12 commission of the offense, in which case the offender shall be punished by life
13 imprisonment at hard labor without benefit of probation or suspension of sentence.

14 Section 2. R.S. 15:574.4(B)(1), (D), (E), and (F) are hereby amended and reenacted
15 to read as follows:

16 §574.4. Parole; eligibility; juvenile offenders

17 * * *

18 B.(1)(a) ~~No~~ Except as provided in Subsection F of this Section, no person
19 shall be eligible for parole consideration who has been convicted of armed robbery
20 and denied parole eligibility under the provisions of R.S. 14:64.

21 (b) Except as provided in Paragraph (2) of this Subsection, and except as
22 provided in Paragraph (A)(5) and Subsections D, E, and F of this Section, no
23 prisoner serving a life sentence shall be eligible for parole consideration until his life
24 sentence has been commuted to a fixed term of years.

25 (c) No Except as provided in Subsection F of this Section, no prisoner
26 sentenced as a serial sexual offender shall be eligible for parole.

27 (d) No prisoner may be paroled while there is pending against him any
28 indictment or information for any crime suspected of having been committed by him
29 while a prisoner.

- 1 ~~(i) A literacy program.~~
- 2 ~~(ii) An adult basic education program.~~
- 3 ~~(iii) A job skills training program.~~
- 4 ~~(f) The offender has obtained a low-risk level designation determined by a~~
5 ~~validated risk assessment instrument approved by the secretary of the Department~~
6 ~~of Public Safety and Corrections.~~
- 7 ~~(g) The offender has completed a reentry program to be determined by the~~
8 ~~Department of Public Safety and Corrections.~~
- 9 ~~(h) If the offender was convicted of aggravated or first degree rape, he shall~~
10 ~~be designated a sex offender and upon release shall comply with all sex offender~~
11 ~~registration and notification provisions as required by law.~~
- 12 ~~(2) For each offender eligible for parole consideration pursuant to the~~
13 ~~provisions of this Subsection, the committee on parole shall meet in a three-member~~
14 ~~panel, and each member of the panel shall be provided with and shall consider a~~
15 ~~written evaluation of the offender by a person who has expertise in adolescent brain~~
16 ~~development and behavior and any other relevant evidence pertaining to the~~
17 ~~offender.~~
- 18 ~~(3) The panel shall render specific findings of fact in support of its decision.~~
- 19 ~~E.(1) Notwithstanding any provision of law to the contrary and except as~~
20 ~~provided in Subsection G of this Section, any person serving a sentence of life~~
21 ~~imprisonment for a conviction of first degree murder (R.S. 14:30) who was under the~~
22 ~~age of eighteen years at the time of the commission of the offense and whose~~
23 ~~indictment for the offense is on or after August 1, 2017, shall be eligible for parole~~
24 ~~consideration pursuant to the provisions of this Subsection if a judicial determination~~
25 ~~has been made that the person is entitled to parole eligibility pursuant to Code of~~
26 ~~Criminal Procedure Article 878.1(A) and all of the following conditions have been~~
27 ~~met:~~
- 28 ~~(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 prerelease 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 ~~F.(1) Notwithstanding any provision of law to the contrary and except as~~
28 ~~provided in Subsection G of this Section, any person serving a sentence of life~~
29 ~~imprisonment for a conviction of second degree murder (R.S. 14:30.1) who was~~

1 ~~under the age of eighteen years at the time of the commission of the offense and~~
2 ~~whose indictment for the offense is on or after August 1, 2017, shall be eligible for~~
3 ~~parole consideration if all of the 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 the~~
6 ~~twelve consecutive months prior to the parole hearing date. A major disciplinary~~
7 ~~offense is an offense identified as a Schedule B offense by the Department of Public~~
8 ~~Safety and Corrections in the Disciplinary Rules and Procedures for Adult Offenders.~~

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

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

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

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

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

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

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

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

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

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

2 ~~G.(1) Notwithstanding any provision of law to the contrary, any person~~
3 ~~-serving a sentence of life imprisonment for a conviction of first degree murder (R.S.~~
4 ~~14:30) or second degree murder (R.S. 14:30.1) who was under the age of eighteen~~
5 ~~years at the time of the commission of the offense and whose indictment for the~~
6 ~~offense was prior to August 1, 2017, shall be eligible for parole consideration~~
7 ~~pursuant to the provisions of this Subsection if a judicial determination has been~~
8 ~~made that the person is entitled to parole eligibility pursuant to Code of Criminal~~
9 ~~Procedure Article 878.1(B) and all of the following conditions have been met:~~

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

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

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

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

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

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

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

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

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

1 years at the time of the commission of the offense shall be eligible for parole
2 consideration pursuant to the provisions of this Subsection if all of the following
3 conditions have been met:

4 * * *

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

- 10 (i) A literacy program.
- 11 (ii) An adult basic education program.
- 12 (iii) A job skills training program.
- 13 (iv) A GED certification.

14 * * *

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

21 * * *

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

24 Section 4. The provisions of this Act shall be given prospective and retroactive
25 application.

26 Section 5. This Act shall become effective upon signature by the governor or, if not
27 signed by the governor, upon expiration of the time for bills to become law without signature
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 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 254 Original

2021 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 prior law (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 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))