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## DIGEST

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HB 490 Original

2021 Regular Session

Duplessis

**Abstract:** Allows for parole eligibility for certain persons who meet certain requirements.

Present law provides that a person, otherwise eligible for parole, whose instant offense is a second conviction of a crime of violence or a first or a second conviction of a sex offense shall be eligible for parole consideration upon serving 75% of the sentence imposed.

Present law further prohibits a person convicted a third or subsequent time of a crime of violence or a third or subsequent time of a sex offense from parole eligibility.

Proposed law removes the present law prohibition and provides that persons convicted of a sex offense or second or subsequent time for a crime of violence shall be eligible for parole consideration upon serving 75% of the sentence imposed.

Present law provides that unless eligible for parole at an earlier date, a person committed to the Dept. of Public Safety and Corrections for a term or terms of imprisonment with or without benefit of parole for 30 years or more shall be eligible for parole consideration upon serving at least 20 years of the term or terms of imprisonment in actual custody and upon reaching the age of 45.

Further provides that present law does not apply to a person serving a life sentence unless the sentence has been commuted to a fixed term of years. Provides that present law shall not apply to a person convicted of armed robbery, a crime of violence, or a sex offense.

Proposed law amends present law to remove the age 45 requirement and removes the prohibition on eligibility for parole considerations for persons convicted of armed robbery, a crime of violence, or a sex offense.

Present law prohibits eligibility for parole consideration for a person who has been convicted of armed robbery and denied parole eligibility. Further provides that 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 and no person sentenced as a serial sex offender shall be eligible for parole.

Proposed law repeals present law.

Proposed law provides that any person serving a term or terms of life imprisonment, with or without the benefit of parole, and unless eligible for parole at an earlier date, shall be eligible for parole consideration pursuant to the provisions of present law if certain proposed law conditions are met.

Present law provides for 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 provides that an offender serving a life sentence for second degree murder shall be eligible for parole consideration if all of the following conditions are met:

- (1) The offender committed the offense after July 2, 1973, and prior to June 29, 1979.
- (2) The offender has served at least 40 years of the sentence imposed.

Present law further requires a unanimous vote of the committee on parole.

Proposed law amends present law to provide that an offender serving a term or terms of life imprisonment, with or without the benefit of parole, and unless eligible for parole at an earlier date, shall be eligible for parole consideration if the offender has served at least 30 years of the sentence imposed and removes the requirement of a unanimous vote of the committee on parole.

Present law (R.S. 15:574.4(J)) provides that an offender 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 at the time of the commission of the offense shall be eligible for parole consideration upon meeting certain conditions, including but not limited to the following: the offender has served at least 25 years of the sentence imposed, has not committed any major disciplinary offenses in the 12 consecutive months prior to the parole hearing date, completed the mandatory minimum of 100 hours of prerelease programming, and completed a substance abuse treatment applicable.

Proposed law amends present law to require the committee on parole to meet in a three-member panel to consider the impact that the lack of brain development in adolescence has on culpability and behavior, a juvenile's unique ability to mature and grow, and any other relevant evidence or testimony pertaining to the offender and render specific findings of fact in support of its decision.

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 of 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 further 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 is to be governed by present 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).

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

(Amends R.S. 15:574.4(A)(1)(b)(i) and (2), (B)(1), (D), (E)(intro. para.), and (F); Adds R.S. 15:574.4(B)(3); Repeals C.Cr.P. Art. 878.1 and R.S. 15:574.4(G), (H), (I), and (J))