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## DIGEST

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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))