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## DIGEST

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Hazel

HB No. 152

**Abstract:** Provides for parole consideration for juveniles sentenced to life imprisonment for certain homicide offenses after a judicial determination of eligibility for such consideration and when certain conditions are met.

Present law provides that any offender who commits first degree murder or second degree murder who is under the age of 18 at the time of the commission of the offense shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

In the case, *Miller v. Alabama*, 132 S.Ct. 2455 (2012), the U.S. Supreme Court held that mandatory life imprisonment without parole for any offender under the age of 18 violates the 8th Amendment's prohibition on cruel and unusual punishment. Although the court did not prohibit a life sentence for juveniles convicted of homicide offenses, the court did require the sentencing court to consider the offender's youth and attendant characteristics as mitigating circumstances.

Proposed law retains present law but provides that any person serving a sentence of life imprisonment for a conviction of first degree murder or second degree murder who was under the age of 18 at the time of the commission of the offense shall be eligible for parole consideration if a judicial determination has been made that the person is entitled to parole eligibility and all of the following conditions have been met:

- (1) The offender has served 50 years of the sentence imposed.
- (2) The offender has not committed any disciplinary offenses in the 12 consecutive months prior to the parole eligibility date.
- (3) The offender has completed a minimum of 100 hours of prerelease programming.
- (4) The offender has completed substance abuse treatment as applicable.
- (5) The offender has obtained a GED or, in certain circumstances, has completed a literacy program, an adult basic education program, or a job skills training program.
- (6) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of DPS&C.

(7) The offender has completed a reentry program to be determined by DPS&C.

Proposed law further provides that for such parole decisions, the board shall meet in a three-member panel and each member of the panel shall be provided with and shall consider a written evaluation of the offender by a person who has expertise in adolescent brain development and behavior and any other relevant evidence pertaining to the offender.

Proposed law requires the panel to render specific findings of fact in support of its decision.

Proposed law provides for a sentencing hearing for an offender who 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. Upon consideration of any aggravating or mitigating evidence relevant to the charged offense or the character of the offender, if the court determines that a sentence of life without the possibility of parole for a particular offender is unconstitutionally excessive, the offender shall be eligible for parole consideration pursuant to the provisions of proposed law.

(Amends R.S. 15:574.4(B)(1); Adds R.S. 15:574.4(E) and C.Cr.P. Art. 878.1)