
DIGEST

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Honore

HB No. 319

Abstract: Provides relative to the sentencing and parole eligibility of juvenile offenders convicted or who plead guilty to first or second degree murder.

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 of *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 amends present law to provide for the following:

- (1) A sentence for first degree murder for any offender who was under the age of 18 at the time of the commission of the offense shall only be imposed after a sentencing hearing as follows:
 - (a) If the jury unanimously finds, beyond a reasonable doubt, the existence of at least one aggravating circumstance, but does not unanimously determine, after consideration of mitigating circumstances, that a sentence of life imprisonment without the benefit of parole shall be imposed, the court shall sentence the offender to life imprisonment with the benefit of parole pursuant to the provisions of proposed law.
 - (b) If the jury fails to find, beyond a reasonable doubt, the existence of at least one aggravating circumstance, the court shall sentence the offender to imprisonment at hard labor for not more than 40 years.
 - (c) If the jury unanimously finds, beyond a reasonable doubt, the existence of at least one aggravating circumstance and unanimously determines, after a consideration of mitigating circumstances, that a sentence of life imprisonment without the possibility of parole should be imposed upon the offender, the offender shall be sentenced to life imprisonment without the possibility of parole pursuant to the

provisions of present law.

- (2) A sentence for second degree murder for any offender who was under the age of 18 at the time of the commission of the offense shall only be imposed after a sentencing hearing as follows:
 - (a) If the jury unanimously finds, beyond a reasonable doubt, the existence of at least one aggravating circumstance and unanimously determines, after consideration of mitigating circumstances, that a sentence of life imprisonment should be imposed, the court shall sentence the offender to life imprisonment with the benefit of parole pursuant to the provisions of proposed law.
 - (b) If the jury unanimously finds, beyond a reasonable doubt, the existence of at least one aggravating circumstance, but does not unanimously determine, after consideration of mitigating circumstances, that a sentence of life imprisonment should be imposed, the court shall sentence the offender to imprisonment at hard labor for not more than 40 years.
 - (c) If the jury fails to find, beyond a reasonable doubt, the existence of at least one aggravating circumstance, the court shall sentence the offender to imprisonment at hard labor for not more than 40 years.
- (3) A offender convicted of, or who pleads guilty to, second degree murder, when the offender was under the age of 18 at the time of the commission of the offense, shall never be sentenced to life imprisonment without the possibility of parole.
- (4) The sentencing hearing provided in proposed law shall commence no sooner than 12 hours after a conviction or plea of guilty, except upon joint motion of the state and the offender.
- (5) A list of aggravating circumstances and mitigating circumstances which shall be considered by the jury.
- (6) Any offender 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 upon serving 30 years of the sentence imposed and when all of the following conditions have been met:
 - (a) The offender has not committed any disciplinary offenses in the 12 consecutive months prior to the parole eligibility date.
 - (b) The offender has completed the mandatory minimum of 100 hours of prerelease programming.
 - (c) The offender has completed substance abuse treatment as applicable.

- (d) 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.
 - (e) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of DPS&C.
 - (f) The offender has completed a reentry program to be determined by DPS&C.
 - (g) If the offender was convicted of aggravated rape, he shall be designated a sex offender and upon release shall comply with all sex offender registration and notification provisions as required by law.
- (7) 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.
- (8) Requires the panel to render specific findings of fact in support of its decision.
- (9) Provisions of proposed law relative to parole eligibility shall not apply to any offender convicted of first degree murder who was under the age of 18 at the time of the commission of the offense and who was sentenced to life imprisonment without the possibility of parole after a sentencing hearing pursuant to proposed law.

(Amends R.S. 15:574.4(B)(1); Adds C.Cr.P. Articles 906-906.5 and R.S. 15:574.4(E))