

Hazel (HB 152)**Act No. 239**

Existing 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.

New law retains existing 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 35 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.

New 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.

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

New law 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 new law. Provides that sentences imposed without parole eligibility should normally be reserved for the worst offenders and the worst cases. Provides for the introduction of aggravating and mitigating evidence at the hearing.

Effective August 1, 2013.

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