

2016 Regular Session

SENATE BILL NO. 367

BY SENATOR CLAITOR

JUVENILE JUSTICE. Provides relative to certain juveniles sentenced to life without parole.
(gov sig)

1 AN ACT

2 To enact R.S. 15:574.4(F), relative to parole eligibility; to provide parole eligibility for
3 juveniles sentenced to life imprisonment for certain homicide offenses; to provide
4 for conditions of parole eligibility; to provide for parole hearings and findings of
5 fact; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:574.4(F) is hereby enacted to read as follows:

8 §574.4. Parole; eligibility; **juvenile offenders**

9 * * *

10 **F. (1) Notwithstanding any provision of law to the contrary, any person**
11 **serving a sentence of life imprisonment for a conviction of first degree murder**
12 **(R.S. 14:30) or second degree murder (R.S. 14:30.1) who was under the age of**
13 **eighteen years at the time of the commission of the offense and whose conviction**
14 **became final prior to June 25, 2012, shall be eligible for parole consideration**
15 **pursuant to the provisions of this Subsection if all of the following conditions**
16 **have been met:**

17 **(a) The offender has served thirty-five years of the sentence imposed.**

1 **(b) The offender has not committed any major disciplinary offenses in**
2 **the twelve consecutive months prior to the parole hearing date. A major**
3 **disciplinary offense is an offense identified as a Schedule B offense by the**
4 **Department of Public Safety and Corrections in the Disciplinary Rules and**
5 **Procedures for Adult Offenders.**

6 **(c) The offender has completed the mandatory minimum of one hundred**
7 **hours of prerelease programming in accordance with R.S. 15:827.1.**

8 **(d) The offender has completed substance abuse treatment as applicable.**

9 **(e) The offender has obtained a GED certification, unless the offender**
10 **has previously obtained a high school diploma or is deemed by a certified**
11 **educator as being incapable of obtaining a GED certification due to a learning**
12 **disability. If the offender is deemed incapable of obtaining a GED certification,**
13 **the offender shall complete at least one of the following:**

14 **(i) A literacy program.**

15 **(ii) An adult basic education program.**

16 **(iii) A job skills training program.**

17 **(f) The offender has obtained a low-risk level designation determined by**
18 **a validated risk assessment instrument approved by the secretary of the**
19 **Department of Public Safety and Corrections.**

20 **(g) The offender has completed a reentry program to be determined by**
21 **the Department of Public Safety and Corrections.**

22 **(2) For each offender eligible for parole consideration pursuant to the**
23 **provisions of this Subsection, the board shall meet in a three-member panel, and**
24 **each member of the panel shall be provided with and shall consider a written**
25 **evaluation of the offender by a person who has expertise in adolescent brain**
26 **development and behavior and any other relevant evidence pertaining to the**
27 **offender.**

28 **(3) The panel shall render specific findings of fact in support of its**
29 **decision.**

1 Section 2. This Act shall become effective upon signature of the governor or, if not
 2 signed by the governor, upon expiration of the time for bills to become law without signature
 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 5 effective on the day following such approval.

The original instrument was prepared by Ashley Menou. The following digest, which does not constitute a part of the legislative instrument, was prepared by Alden A. Clement Jr.

DIGEST

SB 367 Engrossed

2016 Regular Session

Claitor

Present law provides relative to parole eligibility for certain imprisoned offenders under certain circumstances.

In *Miller v. Alabama*, 567 U.S. ____, 132 S.Ct. 2455 (2012), the Supreme Court held that mandatory life imprisonment without the possibility of parole for an offender under the age of 18 violates the 8th Amendment's prohibition on cruel and unusual punishment. Accordingly, present law provides that a 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 is eligible for parole 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 the Dept. of Public Safety and Corrections (DPSC).
- (7) The offender has completed a reentry program to be determined by DPSC.

Present law further provides that for such parole decisions, the parole board is to meet in a three-member panel and each member of the panel is to be provided with and 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.

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

Proposed law retains present law.

In *Montgomery v. Louisiana*, 577 U.S. ____ (2016), the Supreme Court held that *Miller's*

prohibition on mandatory life without parole for juveniles is to be applied retroactively. The court further held that a state may remedy a *Miller* violation by extending parole eligibility to juvenile offenders. Accordingly, proposed law makes present law relative to parole eligibility for certain juvenile offenders applicable to those offenders who were under the age of 18 years at the time of the commission of the offense and whose conviction became final prior to June 25, 2012, i.e., makes present law relative to parole eligibility for these offenders retroactive.

Proposed law otherwise retains present law.

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

(Adds R.S. 15:574.4(F))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Delete provision relative to sentencing hearing from proposed law.