

2024 Regular Session

HOUSE BILL NO. 889

BY REPRESENTATIVE OWEN

CRIMINAL/JURY TRIALS: Creates the sentencing review panel for non-unanimous jury convictions

1 AN ACT

2 To enact R.S. 15:574.1.1, relative to non-unanimous jury convictions; to provide relative to
3 sentencing; to create a review panel for cases in which a non-unanimous jury verdict
4 was rendered; to provide relative to powers and duties of the review panel; to provide
5 for eligibility to apply for pardon or commutation of sentence; to provide for
6 eligibility to apply for post-conviction relief; to provide relative to the Board of
7 Pardons; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 15:574.1.1 is hereby enacted to read as follows:

10 §574.1.1. Non-unanimous jury convictions; review panel

11 A.(1) The Sentencing Review Panel for Non-unanimous Jury Convictions,
12 hereinafter referred to as the "review panel", is hereby created within the Department
13 of Public Safety and Corrections, which shall be authorized to enforce the provisions
14 of this Section. The review panel shall consist of the following members:

15 (a) Two licensed attorneys appointed by the governor.

16 (b) Two legal analysts appointed by the governor.

17 (c) Two licensed attorneys appointed by the office of the attorney general
18 and the Louisiana District Attorneys Association jointly.

19 (d) Two legal analysts appointed by the office of the attorney general and the
20 Louisiana District Attorneys Association jointly.

1 (e) Two attorneys appointed by the office of the state public defender.

2 (f) Two legal analysts appointed by the office of the state public defender.

3 (2) An attorney shall be in good standing with the Louisiana State Bar
4 Association or any federal or state court bar in order to be appointed to the review
5 panel. No active employee of the state shall be eligible for nomination or
6 appointment to the review panel. Members of the review panel may be associated
7 with or solicit input, information, data, recommendations, and advice from any group
8 or organization that advocates for civil rights, victims' rights, prisoners' rights, or law
9 enforcement, or any civic or public policy group or organization.

10 (3) The review panel shall collect and analyze sentencing data for all cases
11 in which a non-unanimous jury verdict was rendered prior to 2018. The review
12 panel shall conduct a comprehensive review of each case and determine if the
13 conviction by a non-unanimous jury verdict resulted in a miscarriage of justice.

14 B. The chairman of the review panel shall be selected by mutual agreement
15 of the governor, the office of the attorney general, the Louisiana District Attorneys
16 Association, and the office of the state public defender. The salaries of the review
17 panel members shall be designated by the Department of Public Safety and
18 Corrections, based upon the member's years of experience.

19 C. Attorney members shall be prohibited from representing any person in
20 connection with their duties as a member of the review panel. Any member of the
21 review panel who has an existing or any previous personal, professional, or financial
22 transaction involving or relating to a person in any of the cases reviewed by the panel
23 shall be recused from any participation in the review of the case of that person.

24 D. The review panel members shall work full-time hours under a contract
25 that shall not exceed one year. If the review panel is needed for a longer period of
26 time, the chairman of the review panel may request approval from the secretary of
27 the Department of Public Safety and Corrections.

28 E. In accordance with the provisions of this Section, the review panel shall
29 have the following powers and duties:

1 (1) To determine if a person was convicted of an offense by a
2 non-unanimous jury, and, if so, whether his conviction resulted in a miscarriage of
3 justice.

4 (2) To determine eligibility for application for pardon or commutation of
5 sentence in relation to a conviction by a non-unanimous jury verdict which resulted
6 in a miscarriage of justice.

7 (3) To determine the necessity for notification of investigative and legal
8 authorities related to a possible need to review facts related to the prosecution or
9 conviction of an individual convicted by a non-unanimous jury.

10 (4) To keep a record of its actions and notify each correctional facility of the
11 final determination of the review panel relating to persons in custody for a conviction
12 by a non-unanimous jury verdict.

13 (5) To notify the governor and the Board of Pardons of persons who are
14 eligible to apply for pardon or commutation of sentence as determined by the review
15 panel.

16 (6) To notify the district attorney of the judicial district, or prosecuting
17 authority in the parish, where the conviction occurred of the need to review the
18 substantive facts surrounding the trial and or prosecution as determined by the
19 review panel.

20 (7) To perform any additional duties necessary to enforce the provisions of
21 this Section.

22 F.(1)(a) Notwithstanding any provision of law to the contrary, any person
23 currently incarcerated who the review panel determines was convicted by a
24 non-unanimous jury verdict and that non-unanimous jury verdict resulted in a
25 miscarriage of justice shall be entitled to file an application with the Board of
26 Pardons under the provisions of this Section, regardless of the term of imprisonment
27 imposed.

28 (b) Notwithstanding any provision of law to the contrary, any person
29 currently incarcerated who the review panel determines was convicted by a

1 non-unanimous jury verdict which did not result in a miscarriage of justice, but based
2 on evidence in the case may request a review of substantive facts involved in the
3 investigation, prosecution or conviction in judicial district where the incarcerated
4 person was convicted regardless of the term of imprisonment imposed.

5 G. The review panel shall obtain the necessary information to conduct a
6 comprehensive review of each case including but not limited to the following:

7 (1) The current age of each person.

8 (2) Age at the time of the offense.

9 (3) Charges.

10 (4) Sentence length.

11 (5) Sentencing enhancements applied.

12 (6) Time served.

13 (7) Time remaining.

14 (8) Judicial district or parish of the trial.

15 H. In determining whether the non-unanimous jury verdict resulted in a
16 miscarriage of justice, the review panel may also consider any of the following,
17 illustrative, non-exhaustive, non-mandatory factors:

18 (1) Whether the non-unanimity was the result of juror votes to acquit.

19 (2) Whether a juror voted to convict for a responsive verdict when the person
20 was convicted of the offense charged.

21 (3) Whether a juror voted to convict for the offense charged when the person
22 was convicted of a responsive verdict.

23 (4) Intimidation of any juror.

24 (5) Jury instruction errors.

25 (6) The overall strength of the state's case.

26 (7) The length of deliberations.

27 (8) The nature of the offense.

28 (9) The assistance of counsel for the applicant at trial and on appeal.

29 (10) Any indicia of racial animus in the prosecution of the person's case.

1 I. An affirmative finding that a conviction was the result of a non-unanimous
2 jury verdict and the non-unanimous verdict resulted in a miscarriage of justice shall
3 require the favorable vote of at least seven members of the review panel.

4 (1) If there is found to be a miscarriage of justice in a case, the person
5 convicted by a non-unanimous jury verdict in that case shall be placed on an eligible
6 list to apply for a pardon or commutation of sentence.

7 (2) If there is found to be evidence that may raise reasonable doubt as to
8 the efficacy of the outcome of the non-unanimous jury verdict, the district attorney,
9 the sheriff, and presiding judicial district shall be notified of the concern. The three
10 entities shall confer on the facts and determine if any actions are merited.

11 J. If no evidence or miscarriage of justice is found that may prompt
12 notification to the district attorney, the sheriff, and the presiding judicial district, the
13 person convicted by a non-unanimous jury verdict shall not be precluded from
14 petitioning for relief under any provision allowed by law not related to the
15 non-unanimous verdict issue.

16 K. All cases pursuant to this Section shall be reviewed within one year of the
17 effective date of this statute.

18 Section 2. The provisions of Section 1 of this Act shall terminate one year after the
19 effective date of this Act. Any person who has made any application for or has availed
20 himself of the eligibility to apply for a pardon or commutation of sentence provided by
21 Section 1 of this Act shall not be prohibited from obtaining any relief afforded him resulting
22 from such a ruling by the Louisiana Supreme Court.

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 889 Original

2024 Regular Session

Owen

Abstract: Creates the sentencing review panel for non-unanimous jury convictions.

Present law provides for eligibility to apply for a pardon or commutation of sentence.

Proposed law expands eligibility to apply for a pardon or commutation of sentence to persons convicted by a non-unanimous jury verdict which resulted in a miscarriage of justice.

Present law provides for post-conviction relief.

Proposed law provides for eligibility to apply for post-conviction relief for persons convicted by a non-unanimous jury verdict which did not result in a miscarriage of justice, but based on the evidence may allow for a new trial.

Proposed law authorizes the DPS&C to create a review panel for the purpose of reviewing all cases in which a non-unanimous jury verdict was rendered prior to 2018. Provides for the composition and duties of the review panel. Further authorizes the DPS&C to adopt rules and regulations necessary to carry out proposed law.

Proposed law provides that no non-unanimous jury verdict case shall be reviewed more than one year after the effective date of this statute.

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

(Adds R.S. 15:574.1.1)