

2022 Regular Session

SENATE BILL NO. 336

BY SENATOR SMITH

JUVENILES. Provides for determination of parole eligibility for juveniles under certain circumstances. (8/1/22)

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AN ACT

To amend and reenact R.S. 15:574.4(D)(1), to enact R.S. 15:574.4(D)(4) and Code of Criminal Procedure Art. 878.2, and to repeal R.S. 15:574.4(E), (F), and (G) and Code of Criminal Procedure Art. 878.1, relative to juveniles; to provide for parole eligibility for juveniles; to provide for a court hearing to determine parole eligibility after serving twenty years; to provide submission of evidence; to provide for subsequent court hearings; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:574.4(D)(1) is hereby amended and reenacted and R.S. 15:574.4(D)(4) is hereby enacted to read as follows:

§574.4. Parole; eligibility; juvenile offenders

\* \* \*

D.(1) Notwithstanding any provision of law to the contrary, any person serving a sentence of life imprisonment who was under the age of eighteen years at the time of the commission of the offense, ~~except for a person serving a life sentence for a conviction of first degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1);~~ shall be eligible for parole consideration pursuant to the provisions of this

1 Subsection if **a judicial determination has been made that the person is entitled**  
2 **to parole eligibility pursuant to C.Cr.P. Art. 878.2 and** all of the following  
3 conditions have been met:

4 (a) The offender has served twenty-five years of the sentence imposed.

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

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

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

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

17 (i) A literacy program.

18 (ii) An adult basic education program.

19 (iii) A job skills training program.

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

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

25 (h) If the offender was convicted of aggravated or first degree rape, he shall  
26 be designated a sex offender and upon release shall comply with all sex offender  
27 registration and notification provisions as required by law.

28 \* \* \*

29 **(4) Notwithstanding any other provision of law to the contrary, if an**

1 offender is denied parole by the committee on parole under this Subsection, the  
2 offender shall not be eligible for another parole hearing for at least ten years  
3 from the date of denial.

4 Section 2. Code of Criminal Procedure Art. 878.2 is hereby enacted to read as  
5 follows:

6 Art. 878.2. Hearing to determine parole eligibility for certain juvenile offenders

7 A. Notwithstanding any provision of law to the contrary, if an offender  
8 is convicted of a violation of R.S. 14:30, 30.1, 42, 44, 44.2(B)(1), 128.1(B)(1), or  
9 any other provision of law which carries a sentence of life imprisonment without  
10 parole and the offender was under the age of eighteen years at the time of the  
11 commission of the offense, the offender shall be sentenced to life imprisonment  
12 with parole eligibility to be determined in accordance with this Article. After  
13 the offender has served twenty years of the sentence, the court of conviction  
14 shall set the matter for a hearing to determine whether the offender shall be  
15 granted parole eligibility pursuant to this Article. The court shall set the matter  
16 for a hearing within one hundred eighty days of the offender serving twenty  
17 years of the sentence. The hearing may be continued one or more times for good  
18 cause on motion of the district attorney, the offender, or the court.

19 B. At the hearing conducted pursuant to this Article, the prosecution and  
20 defense shall be allowed to introduce any aggravating and mitigating evidence  
21 that is relevant to the charged offense or the character of the offender. Such  
22 evidence may include but shall not be limited to:

23 (1) The facts and circumstances of the crime.

24 (2) The nature and extent of the offender's criminal history.

25 (3) The offender's level of family support.

26 (4) The offender's social history.

27 (5) The effect of the crime on the victim, on the victim's family, and on  
28 the community.

29 (6) The offender's age, maturity, intellectual capacity, and mental and

1        emotional health at the time of the offense.

2                (7) The offender's background, including his or her family, home, and  
3        community environment.

4                (8) The effect, if any, of immaturity, impetuosity, or failure to appreciate  
5        risks and consequences on the offender's participation in the offense.

6                (9) The extent of the offender's participation in the offense.

7                (10) The effect, if any, of familial pressure or peer pressure on the  
8        offender's actions.

9                (11) The effect, if any, of characteristics attributable to the offender's  
10       youth on the offender's judgment.

11               (12) The possibility of rehabilitating the offender, including but not  
12       limited to the offender's actions while incarcerated.

13               (13) Any relevant expert witness testimony, the admissibility of which is  
14       to be governed by Chapter 7 of the Code of Evidence.

15               C. The sole purpose of the hearing shall be to determine whether the  
16       offender should be granted parole eligibility. The court shall state for the record  
17       the considerations taken into account and the factual basis for its determination.  
18       If the court determines that the offender should be granted parole eligibility, the  
19       offender shall be eligible for parole pursuant to R.S. 15:574.4(D). If the court  
20       determines that the offender should not be granted parole eligibility, the  
21       offender shall not be eligible for parole. Determinations that the offender should  
22       not be eligible for parole should normally be reserved for the worst offenders  
23       and the worst cases. The offender shall have the burden of showing by a  
24       preponderance of the evidence that he should be granted parole eligibility.

25               D. The district attorney may waive the hearing pursuant to this Article.  
26       Such waiver shall be express and in writing and filed by the district attorney  
27       into the district court record. If the district attorney waives the hearing  
28       pursuant to this Article, the offender shall be granted parole eligibility pursuant  
29       to R.S. 15:574.4(D) without a hearing.

1                    **E. An offender may appeal an adverse ruling from the district court to**  
2                    **the appropriate court of appeal, and the district court's ruling shall be reviewed**  
3                    **for an abuse of discretion.**

4                    **F. An offender shall only be eligible for one hearing pursuant to this**  
5                    **Article during the offender's lifetime.**

6                    **G. Notwithstanding any provision of law to the contrary, if the offender**  
7                    **has already been denied parole eligibility under the C.Cr.P.Art. 878.1 as it**  
8                    **existed prior to August 1, 2022, the offender shall nevertheless be eligible to**  
9                    **avail himself of the provisions of this Article by filing a motion with the court**  
10                   **of conviction on or before August 1, 2024. If the offender has already been**  
11                   **granted parole eligibility under C.Cr.Art. 878.1 as it existed prior to August 1,**  
12                   **2022, the offender shall be eligible for parole pursuant to R.S. 15:574.4(D)**  
13                   **without a hearing under this Article.**

14                   **H. Notwithstanding any provision of law to the contrary, the offender**  
15                   **being granted or denied parole eligibility pursuant to this Article shall in no**  
16                   **way whatsoever be construed as affecting or negating the finality of the**  
17                   **offender's conviction for the purposes of Title XXXI-A of this Code relative to**  
18                   **any post-conviction challenge to the offender's conviction or the finality of the**  
19                   **offender's conviction for the purposes of any federal habeas corpus challenge**  
20                   **to the offender's conviction, and shall not be construed as permitting the**  
21                   **offender to raise any challenge under Title XXXI-A of this Code to the**  
22                   **offender's conviction or under federal habeas corpus law to the offender's**  
23                   **conviction.**

24                   Section 3. R.S. 15:574.4(E), (F), and (G) and Code of Criminal Procedure Art. 878.1  
25                   are hereby repealed.

26                   Section 4. R.S. 15:574.4(H), (I), and (J) are hereby re-designated as (E), (F), and (G)  
27                   respectively.

