2019 Regular Session

## HOUSE BILL NO. 149

1

## BY REPRESENTATIVE MARINO

2 To amend and reenact R.S. 15:529.2(A), 571.5(B)(2), 574.4(C)(2)(a)(introductory paragraph) and (b), 574.4.1(A)(1) and (D)(1), 574.4.3(B), 574.4.4, 3 4 574.9(H)(1)(a)(introductory paragraph), (iii), and (iv), 827(A)(7), and 1111(I)(1) and 5 Code of Criminal Procedure Article 901.1, to enact R.S. 13:5401(B)(3)(d), R.S. 6 15:571.5(B)(3), 574.4.1(D)(3), and 574.9(H)(1)(a)(v), and to repeal R.S. 7 15:574.2(C)(4), relative to parole; to provide relative to reentry court programs; to 8 prohibit persons in reentry court programs from being eligible for parole and from 9 receiving diminution of sentence for good behavior or participation in certain 10 programs; to provide relative to release of offenders on parole based on diminution 11 of sentence for good behavior or participation in certain programs; to authorize the 12 committee on parole to impose special conditions of supervision on certain 13 offenders; to repeal provisions which authorize the release of certain offenders on 14 the offender's parole eligibility date; to provide relative to intensive parole 15 supervision for eligible offenders who participate in the intensive incarceration 16 program established by the Department of Public Safety and Corrections; to repeal 17 provisions relative to the intensive parole supervision program; to remove authority 18 of the committee on parole to recommend that an eligible offender be released to 19 intensive parole supervision; to provide relative to the parole release date of a 20 person who was sentenced as a habitual offender for the purpose of participating in 21 a work release program; to amend the eligibility requirements of a work release 22 program; to authorize participation of a person sentenced as a habitual offender 23 under certain circumstances; to provide relative to technical violations committed by 24 an offender who is released on parole; to authorize the revocation of parole for 25 certain technical violations; and to provide for related matters.

AN ACT

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CODING: Words in struck through type are deletions from existing law; words underscored are additions.

Be it enacted by the Legislature of Louisiana:

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2	Section 1. R.S. 13:5401(B)(3)(d) is hereby enacted to read as follows:
3	§5401. District courts; reentry courts; subject matter
4	* * *
5	B. Participation in the workforce development sentencing program as
6	authorized by the provisions of this Section shall be subject to the following
7	provisions:
8	* * *
9	(3) In offering a defendant the opportunity to request the program, the cour
10	shall advise the defendant of the following:
1	* * *
12	(d) Notwithstanding any provision of law to the contrary, any offende
13	sentenced under this Section shall not be eligible for parole pursuant to R.S.
14	15:574.4(A)(1), nor earn "good time" pursuant to R.S. 15:571.3, or additional "good
15	time" credits for participation in certified treatment and rehabilitation programs
16	pursuant to R.S. 15:828 while in the program.
17	* * *
18	Section 2. R.S. 15:529.2(A), 571.5(B)(2), 574.4(C)(2)(a)(introductory paragraph
19	and (b), 574.4.1(A)(1) and (D)(1), 574.4.3(B), 574.4.4, 574.9(H)(1)(a)(introductory
20	paragraph), (iii), and (iv), 827(A)(7), and 1111(I)(1) are hereby amended and reenacted and
21	R.S. 15:571.5(B)(3), 574.4.1(D)(3), and 574.9(H)(1)(a)(v) are hereby enacted to read as
22	follows:
23	§529.2. Intensive parole supervision for certain habitual offenders
24	A. Notwithstanding any other provisions of law to the contrary, the secretary
25	of the Department of Public Safety and Corrections may release to intensive parole
26	supervision as provided in R.S. 15:574.4.4 any person sentenced pursuant to R.S.
27	15:529.1 and denied eligibility for diminution of sentence when the offender meets
28	the requirements of this Section and of any rules or regulations adopted by the
29	secretary in accordance with the provisions of this Section.
30	* * *

1	§571.5. Supervision upon release after diminution of sentence for good behavior;
2	conditions of release; revocation
3	* * *
4	B.
5	* * *
6	(2) For any prisoner released because of diminution of sentence pursuant to
7	this Part on or after August 1, 2020, the committee on parole may impose special
8	conditions of supervision which include participation in additional programming by
9	the prisoner as determined to be necessary by a validated risk-assessment tool
10	approved by the department.
11	(2)(3) The person released because of diminution of sentence pursuant to this
12	Part shall be supervised in the same manner and to the same extent as if he were
13	released on parole. The supervision shall be for the remainder of the original full
14	term of sentence. If a person released because of diminution of sentence pursuant
15	to this Part violates a condition imposed by the parole committee, the committee
16	shall proceed in the same manner as it would to revoke parole to determine if the
17	release upon diminution of sentence should be revoked.
18	* * *
19	§574.4. Parole; eligibility; juvenile offenders
20	* * *
21	C.
22	* * *
23	(2)(a) Except as provided in R.S. 15:574.2(C)(4), in In cases where the
24	offender has been convicted of, or where adjudication has been deferred or withheld
25	for the perpetration or attempted perpetration of a violation of a sex offense as
26	defined in R.S. 15:541 and parole is permitted by law and the offender is otherwise
27	eligible, the committee shall consider reports, assessments, and clinical information,
28	as available, including any testing and recommendations by mental health
29	professionals, as to all of the following:
30	* * *

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1	(b) Except as provided in R.S. 15:574.2(C)(4), the The committee shall
2	render its decision ordering or denying the release of the prisoner on parole only after
3	considering this clinical evidence where such clinical evidence is available.
4	* * *
5	§574.4.1. Parole consideration and hearings
6	A.(1) The parole hearings shall be conducted in a formal manner in
7	accordance with the rules formulated by the committee and with the provisions of
8	this Part. Except as provided in R.S. 15:574.2(C)(4), before Before the parole of any
9	prisoner is ordered, such prisoner shall appear before and be interviewed by the
10	committee, except those incarcerated in parish prisons or parish correctional centers,
11	in which case one committee member may conduct the interview. The committee
12	may order a reconsideration of the case or a rehearing at any time.
13	* * *
14	D.(1) Except as provided in Paragraph (2) or (3) of this Subsection, the
15	release date of the prisoner shall be fixed by the committee, but such date shall not
16	be later than six months after the parole hearing or the most recent reconsideration
17	of the prisoner's case.
18	* * *
19	(3) When granting parole of a prisoner who was sentenced as a habitual
20	offender pursuant to R.S. 15:529.1, if the committee on parole determines that it is
21	necessary for the prisoner to participate in a work release program established
22	pursuant to R.S. 15:1111, the release date of the prisoner may be extended to no later
23	than one year after the parole hearing or the most recent reconsideration of the
24	prisoner's case.
25	* * *
26	§574.4.3. Parole requirements for certain sex offenders
27	* * *
28	B. If a person who is otherwise eligible for intensive parole supervision
29	incarceration pursuant to R.S. 15:574.4.4, has been convicted of one of the sexual
30	offenses enumerated in this Section and the intensive parole supervision

<u>incarceration program</u> is applicable to any of those enumerated crimes, then the provisions of this Section shall apply.

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§574.4.4. Parole; intensive parole supervision Intensive incarceration program; eligibility

Notwithstanding the provisions of R.S. 15:574.4(A)(1), a person, otherwise eligible for parole, any other provision of law, a defendant convicted of a nonviolent first felony offense and committed to the Department of Public Safety and Corrections, or of a nonviolent second felony offense and committed to the Department of Public Safety and Corrections, may be eligible for intensive parole supervision upon successful completion of to participate in the intensive incarceration program. In addition, any person convicted of a first or second offense for possession of amphetamine or methamphetamine or cocaine or oxycodone or methadone or of a first offense for distribution, dispensing, or possession with intent to produce, manufacture, distribute, or dispense amphetamine or methamphetamine or cocaine or oxycodone or methadone, in violation of R.S. 40:967(B)(1) or R.S. 40:967(B)(4)(b) when the amount of amphetamine or methamphetamine or cocaine or oxycodone or methadone involved was twenty-eight grams or less, may be eligible to participate in the intensive incarceration program. Notwithstanding the provisions of R.S. 40:967(B)(4)(b), a person otherwise eligible for participation in the intensive incarceration program may be eligible for intensive parole supervision upon successful completion of intensive incarceration. The intensive incarceration and intensive parole supervision program shall be established and administered by the department. The offender may be considered for participation in the program if all of the following conditions are met:

- The offender is sentenced to be committed to the Department of Public Safety and Corrections to serve ten years or less.
- (2) The department, through the division of probation and parole within the office of adult services, recommends to the sentencing court that the offender is particularly likely to respond affirmatively to participation in the program.

1 (3) The court at sentencing recommends that the offender be considered for 2 participation in the program. 3 (4) The secretary of the department, or his designee, finds, after an 4 evaluation, that the offender is particularly likely to respond affirmatively to 5 participation in the program. 6 (5) The offender voluntarily enrolls in the program after having been advised 7 by the department of the rules and regulations governing participation in the 8 program. 9 (6) The court sentences an offender in the drug division probation program 10 pursuant to R.S. 13:5304. 11 B. Notwithstanding the provisions of R.S. 15:574.4(A)(1), an offender who 12 is otherwise eligible for intensive incarceration and intensive parole supervision, but 13 who has not been recommended for participation in the intensive incarceration and 14 intensive parole supervision program by the division of probation and parole or the 15 sentencing judge, as provided for in Paragraphs (A)(2) and (3) of this Section, may 16 additionally be placed in the intensive incarceration and intensive parole supervision 17 program if all of the following conditions are met: 18 (1) The staff at the adult reception and diagnostic center, after a thorough 19 evaluation, determines that the offender is suitable and appropriate for participation. 20 (2) The warden at the adult reception and diagnostic center concurs with the 21 staff recommendation. 22 (3) The warden of the facility where the offender would be placed concurs 23 with the recommendation of the staff and warden of the adult reception and 24 diagnostic center. 25 (4) The offender meets other conditions of participation as set forth in 26 Paragraphs (A)(1), (4), and (5) of this Section. C.(1) Notwithstanding the provisions of R.S. 15:574.4(A)(1), a person, 27 28 otherwise eligible for parole, convicted of a first felony offense and committed to the 29 Department of Public Safety and Corrections, or of a second felony offense and 30 committed to the Department of Public Safety and Corrections, may be eligible for

intensive parole supervision upon successful completion of intensive incarceration.

The intensive incarceration and intensive parole supervision program shall be established and administered by the department.

- (2) The court may sentence an offender directly to the program if the court commits the offender to the Department of Public Safety and Corrections to serve ten years or less.
- <del>D.</del>B. For purposes of this Section, a "first offender" shall not have been convicted previously of another felony as provided in R.S. 15:572(C) and shall not have been granted an automatic pardon as provided in R.S. 15:572(B).
- E.C. The duration of intensive incarceration shall not be less than one hundred eighty calendar days.
- F.D. The participating offender shall be evaluated by the program staff on a continual basis throughout the entire period of intensive incarceration. The evaluation shall include the offender's performance while incarcerated, the likelihood of successful adjustment on parole, and other factors deemed relevant by the committee on parole or the program staff. The evaluation shall provide the basis for the recommendations by the department to the committee on parole upon the offender's completion of intensive incarceration. Violation of any institutional or program rules or regulations may subject the participant to removal from the program by the department.
- G.E.(1) If an offender is denied entry into the intensive incarceration program for physical or mental health reasons or for failure to meet the department's suitability criteria, the department shall notify the sentencing court, and based upon the court's order, shall either return the offender to court for resentencing in accordance with the provisions of the Code of Criminal Procedure Article 881.1 or return the offender to a prison to serve the remainder of his sentence as provided by law.
- (2) If an offender enters the intensive incarceration program and is subsequently removed for physical or mental health reasons or for failure to meet the department's suitability criteria, the department shall notify the sentencing court and,

based upon the court's order, shall either return the offender to court for resentencing in accordance with the provisions of Code of Criminal Procedure Article 881.1 or return the offender to a prison to serve the remainder of his sentence as provided by law. If an offender enters the intensive incarceration program and is removed for violating any institutional or program rules or regulations, the offender shall be assigned to the general population to serve the remainder of his sentence as provided by law.

H. When an offender completes intensive incarceration, the committee on parole shall review the case of the offender and recommend either that the offender be released on intensive parole supervision or that the offender serve the remainder of his sentence as provided by law. When the offender is released to intensive parole supervision by the committee, the committee shall require the offender to comply with the following conditions of intensive parole supervision in addition to any other conditions of parole ordered by the committee:

- (1) Be subject to multiple monthly visits with his supervising officers without prior notice.
  - (2) Abide by any curfew set by his supervising officers.
- (3) Perform at least one hundred hours of unpaid community service work during the period of intensive parole supervision and, if unemployed, perform additional hours as instructed by his supervising officers.
- (4) Refrain from using or possessing any controlled dangerous substance or alcoholic beverage and submit, at his own expense, to screening, evaluation, and treatment for controlled dangerous substance or alcohol abuse as directed by his supervising officers.
  - (5) Pay any costs as ordered by the sentencing court or committee on parole.

I. In cases in which the committee on parole determines that there is victim opposition to parole, that the offender has a questionable disciplinary record, or that other extraordinary circumstances exist, the committee may conduct a hearing to consider intensive parole supervision for the offender having successfully completed intensive incarceration, which shall be public and conducted in the same manner as

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1	parole hearings as otherwise provided in this Part. Otherwise the decision shall be
2	made upon the approval or disapproval of a majority of the members of the
3	committee without necessity of a hearing, after a review of all available information
4	on the offender, including the pre-parole report prepared by the department.
5	J.F. In cases in which the court sentences a defendant in the drug division
6	probation program for a technical violation of probation, the offender shall return to
7	active supervised probation with the drug division probation program for a period as
8	ordered by the court, subject to any additional conditions imposed by the court.
9	K. Notwithstanding the provisions of R.S. 15:574.4(A)(1), a person
10	otherwise eligible for parole who is convicted of a nonviolent first felony offense
11	may be committed to the Department of Public Safety and Corrections pursuant to
12	the provisions of Code of Criminal Procedure Article 895(B)(3) to serve a sentence
13	of not more than six months without diminution of sentence in the intensive
14	incarceration program pursuant to the provisions of this Section.
15	* * *
16	§574.9. Revocation of parole for violation of condition; committee panels; return
17	to custody hearing; duration of reimprisonment and reparole after revocation;
18	credit for time served; revocation for a technical violation
19	* * *
20	H.(1)(a) Any offender who has been released on parole and who has been
21	determined by the committee on parole to have committed a technical violation of
22	the conditions of parole as determined by the committee on parole, shall be required
23	to serve the following sentences:
24	* * *
25	(iii) For a third or subsequent technical violation, not more than forty-five
26	days.
27	(iv) For a fourth or subsequent technical violation, not more than ninety
28	days.

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1	(v) For custodial substance abuse treatment programs, not more than ninety
2	days.
3	* * *
4	§827. Duties of Department of Public Safety and Corrections
5	A. In addition to other duties imposed upon the department it shall be the
6	duty of the department to:
7	* * *
8	(7) Establish a procedure that provides for each offender who is sentenced
9	to one hundred eighty days or more in the custody of the Department of Public
10	Safety and Corrections, a written case plan that is based on the results of an
11	assessment of the offender's risk and needs and includes participation in
12	programming that addresses the needs identified in that assessment. For offenders
13	eligible for administrative parole pursuant to R.S. 15:574.2(C)(4), the case plan
14	should be reasonably achievable prior to the offender's administrative parole
15	eligibility date and the department shall notify the committee in writing of an
16	offender's compliance or noncompliance with the case plan not less than sixty days
17	before an offender's administrative parole release date. The provisions of this
18	Paragraph shall be implemented to the extent that funds are appropriated for this
19	purpose and to the extent that it is consistent with the available resources.
20	* * *
21	§1111. Work release program
22	* * *
23	I.(1) Any inmate who has been convicted of forcible or second degree rape
24	$(R.S.\ 14:42.1), aggravated\ arson\ (R.S.\ 14:51), armed\ robbery\ (R.S.\ 14:64), attempted$
25	murder (R.S. 14:27 and 29), or attempted armed robbery (R.S. 14:27 and 64), shall
26	be eligible to participate in a work release program during the last six months of his
27	term. Any person sentenced as a habitual offender pursuant to R.S. 15:529.1 shall
28	be eligible to participate in a work release program during the last year of his term
29	or pursuant to the provisions of R.S. 15:574.4.1(D)(3), if the offender has obtained

a low-risk level designation determined by a validated risk assessment instrument

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approved by the secretary of the Department of Public Safety and Corrections. Notwithstanding the provisions of this Section and unless the inmate is eligible at an earlier date, those inmates who have served a minimum of fifteen years in the custody of the department for those crimes enumerated in this Section shall be eligible to participate in a work release program during the last twelve months of their terms.

7 \* \* \* \*

Section 3. Code of Criminal Procedure Article 901.1 is hereby amended and reenacted to read as follows:

## Art. 901.1. Additional sanctions for probation revocation

A. Notwithstanding any other provision of law, when a defendant, who is a first offender on probation with a suspended sentence for a term of seven years or less at hard labor, or a second offender on probation and having never served time in a state prison, has his probation revoked for any reason other than a subsequent felony conviction, the court, upon the recommendation of the division of probation and parole, may order that the offender be committed to the Department of Public Safety and Corrections and be considered for participation in the intensive incarceration and intensive parole supervision program as provided for in R.S. 15:574.4 R.S. 15:574.4.4 or R.S. 15:574.5. If the offender committed to the custody of the department participates in an intensive incarceration program of an eligible parish, the department shall reimburse the sheriff's office of the parish conducting the program in the amount appropriated by the legislature.

B. If the imposition of the sentence was suspended, the defendant shall serve the sentence imposed by the court at the revocation hearing. If the defendant is a first offender and receives a sentence of seven years or less at hard labor, or a second offender on probation and having never served time in a state prison, the court, upon recommendation of the division of probation and parole, may order that the offender be committed to the department and be considered for participation in the intensive incarceration and intensive parole supervision program as provided for in R.S. 15:574.4 R.S. 15:574.4.4 or R.S. 15:574.5. If the offender committed to the custody

1	of the department participates in an intensive incarceration program as provided for
2	in R.S. 15:574.5, the department shall reimburse the sheriff's office of the parish
3	conducting the program in the amount appropriated by the legislature.
4	Section 4. R.S. 15:574.2(C)(4) is hereby repealed in its entirety.
	SPEAKER OF THE HOUSE OF REPRESENTATIVES
	PRESIDENT OF THE SENATE
	GOVERNOR OF THE STATE OF LOUISIANA

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APPROVED: \_\_\_\_