

ACT No. 369

2019 Regular Session

HOUSE BILL NO. 149

BY REPRESENTATIVE MARINO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

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

1 Be it enacted by the Legislature of Louisiana:

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 court
10 shall advise the defendant of the following:

11 * * *

12 (d) Notwithstanding any provision of law to the contrary, any offender
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 * * *

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~~

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.~~

27 ~~C.(1) Notwithstanding the provisions of R.S. 15:574.4(A)(1), a person,
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~~

1 intensive parole supervision upon successful completion of intensive incarceration.
 2 ~~The intensive incarceration and intensive parole supervision program shall be~~
 3 ~~established and administered by the department.~~

4 ~~(2) The court may sentence an offender directly to the program if the court~~
 5 ~~commits the offender to the Department of Public Safety and Corrections to serve~~
 6 ~~ten years or less.~~

7 D.B. For purposes of this Section, a "first offender" shall not have been
 8 convicted previously of another felony as provided in R.S. 15:572(C) and shall not
 9 have been granted an automatic pardon as provided in R.S. 15:572(B).

10 E.C. The duration of intensive incarceration shall not be less than one
 11 hundred eighty calendar days.

12 F.D. The participating offender shall be evaluated by the program staff on
 13 a continual basis throughout the entire period of intensive incarceration. The
 14 evaluation shall include the offender's performance while incarcerated, ~~the likelihood~~
 15 ~~of successful adjustment on parole, and other factors deemed relevant by the~~
 16 ~~committee on parole or the program staff. The evaluation shall provide the basis for~~
 17 ~~the recommendations by the department to the committee on parole upon the~~
 18 ~~offender's completion of intensive incarceration.~~ Violation of any institutional or
 19 program rules or regulations may subject the participant to removal from the
 20 program by the department.

21 G.E.(1) If an offender is denied entry into the intensive incarceration
 22 program for physical or mental health reasons or for failure to meet the department's
 23 suitability criteria, the department shall notify the sentencing court, and based upon
 24 the court's order, shall either return the offender to court for resentencing in
 25 accordance with the provisions of the Code of Criminal Procedure Article 881.1 or
 26 return the offender to a prison to serve the remainder of his sentence as provided by
 27 law.

28 (2) If an offender enters the intensive incarceration program and is
 29 subsequently removed for physical or mental health reasons or for failure to meet the
 30 department's suitability criteria, the department shall notify the sentencing court and,

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

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

15 ~~(1) Be subject to multiple monthly visits with his supervising officers~~
 16 ~~without prior notice.~~

17 ~~(2) Abide by any curfew set by his supervising officers.~~

18 ~~(3) Perform at least one hundred hours of unpaid community service work~~
 19 ~~during the period of intensive parole supervision and, if unemployed, perform~~
 20 ~~additional hours as instructed by his supervising officers.~~

21 ~~(4) Refrain from using or possessing any controlled dangerous substance or~~
 22 ~~alcoholic beverage and submit, at his own expense, to screening, evaluation, and~~
 23 ~~treatment for controlled dangerous substance or alcohol abuse as directed by his~~
 24 ~~supervising officers.~~

25 ~~(5) Pay any costs as ordered by the sentencing court or committee on parole.~~

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

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

7 * * *

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

10 Art. 901.1. Additional sanctions for probation revocation

11 A. Notwithstanding any other provision of law, when a defendant, who is a
 12 first offender on probation with a suspended sentence for a term of seven years or
 13 less at hard labor, or a second offender on probation and having never served time
 14 in a state prison, has his probation revoked for any reason other than a subsequent
 15 felony conviction, the court, upon the recommendation of the division of probation
 16 and parole, may order that the offender be committed to the Department of Public
 17 Safety and Corrections and be considered for participation in the intensive
 18 incarceration ~~and intensive parole supervision~~ program as provided for in ~~R.S.~~
 19 ~~15:574.4~~ R.S. 15:574.4.4 or R.S. 15:574.5. If the offender committed to the custody
 20 of the department participates in an intensive incarceration program of an eligible
 21 parish, the department shall reimburse the sheriff's office of the parish conducting
 22 the program in the amount appropriated by the legislature.

23 B. If the imposition of the sentence was suspended, the defendant shall serve
 24 the sentence imposed by the court at the revocation hearing. If the defendant is a
 25 first offender and receives a sentence of seven years or less at hard labor, or a second
 26 offender on probation and having never served time in a state prison, the court, upon
 27 recommendation of the division of probation and parole, may order that the offender
 28 be committed to the department and be considered for participation in the intensive
 29 incarceration ~~and intensive parole supervision~~ program as provided for in ~~R.S.~~
 30 ~~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

APPROVED: _____