

2016 Regular Session

SENATE BILL NO. 424

BY SENATOR MARTINY

PROBATION/PAROLE. Provides relative to parole eligibility. (8/1/16)

1 AN ACT

2 To amend and reenact R.S. 15:574.4(A)(2), the introductory paragraph of R.S.
3 15:574.4(A)(4) and 574.4(A)(4)(a), (B)(1), the introductory paragraph of R.S.
4 15:574.4(B)(2) and 574.4 (B)(2)(a)(i), relative to parole eligibility; to provide for
5 parole eligibility for certain offenders convicted for a first time of a crime of
6 violence; to provide for parole eligibility for certain offenders convicted for a second
7 time of a crime of violence; to provide for exclusions; to provide for terms; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 15:574.4(A)(2), the introductory paragraph of R.S. 15:574.4(A)(4)
11 and 574.4(A)(4)(a), (B)(1), the introductory paragraph of R.S. 15:574.4(B)(2) and
12 574.4(B)(2)(a)(i) are hereby amended and reenacted to read as follows:

13 §574.4. Parole; eligibility

14 A.(1)(a) * * *

15 * * *

16 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection or any
17 other law to the contrary, unless eligible for parole at an earlier date, a person

1 committed to the Department of Public Safety and Corrections **serv** **ing a life**
 2 **sentence or** for a term or terms of imprisonment with or without benefit of parole
 3 for thirty years or more shall be eligible for parole consideration upon serving at
 4 least twenty years ~~of the term or terms of imprisonment~~ in actual custody ~~and upon~~
 5 ~~reaching the age of forty-five~~. This provision shall not apply to a person serving a
 6 life sentence **for a sex offense or to an offender with a sentence of death** ~~unless~~
 7 ~~the sentence has been commuted to a fixed term of years~~. The provisions of this
 8 Paragraph shall not apply to any person who has been convicted under the provisions
 9 of R.S. 14:64. The provisions of this Paragraph shall ~~not~~ apply to any person who **is**
 10 **convicted a first time** ~~has been convicted~~ of a crime of violence as defined in R.S.
 11 14:2(B) **or is convicted a second time of a crime of violence if his first conviction**
 12 **was not a crime of violence** ~~or a sex offense as defined in R.S. 15:541~~.

13 * * *

14 (4) Notwithstanding any other provision of law to the contrary, unless eligible
 15 for parole at an earlier date, a person committed to the Department of Public Safety
 16 and Corrections **serv** **ing a life sentence or** for a term or terms of imprisonment with
 17 or without benefit of parole who has served at least ten years of the term or terms of
 18 imprisonment in actual custody shall be eligible for parole consideration upon
 19 reaching the age of sixty years if all of the following conditions are met:

20 (a) The offender has ~~not been convicted of a crime of violence as defined in~~
 21 ~~R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, or convicted of an offense~~
 22 ~~which would constitute a crime of violence as defined in R.S. 14:2(B) or a sex~~
 23 ~~offense as defined in R.S. 15:541, **been convicted a first time of a crime of**~~
 24 **violence or convicted a second time of a crime of violence if his first conviction**
 25 **was not a crime of violence,** regardless of the date of conviction.

26 * * *

27 B.(1) ~~No person shall be eligible for parole consideration who has been~~
 28 ~~convicted of armed robbery and denied parole eligibility under the provisions of R.S.~~
 29 ~~14:64. Except as provided in Paragraph (2) of this Subsection, and except as~~

1 provided in Subsections D and E of this Section, no prisoner serving a life sentence
 2 shall be eligible for parole consideration until his life sentence has been commuted
 3 to a fixed term of years. No prisoner sentenced as a serial sexual offender or
 4 **prisoner with a sentence of death** shall be eligible for parole. No prisoner may be
 5 paroled while there is pending against him any indictment or information for any
 6 crime suspected of having been committed by him while a prisoner.
 7 Notwithstanding any other provisions of law to the contrary, a person convicted of
 8 a crime of violence ~~and not otherwise ineligible for parole~~ **and sentenced to a term**
 9 **or terms of years** shall ~~serve at least eighty-five percent of the sentence imposed,~~
 10 ~~before being~~ **be** eligible for parole **consideration upon serving twenty years in**
 11 **actual custody**. The victim or victim's family shall be notified whenever the
 12 offender is to be released provided that the victim or victim's family has completed
 13 a Louisiana victim notice and registration form as provided in R.S. 46:1841 et seq.,
 14 or has otherwise provided contact information and has indicated to the Department
 15 of Public Safety and Corrections, Crime Victims Services Bureau, that they desire
 16 such notification.

17 (2) Notwithstanding any provision of law to the contrary, any person serving
 18 a life sentence, with or without the benefit of parole, ~~who has not been convicted of~~
 19 ~~a crime of violence as defined by R.S. 14:2(B), a sex offense as defined by R.S.~~
 20 ~~15:541, or an offense,~~ **and** regardless of the date of conviction, ~~which would~~
 21 ~~constitute a crime of violence as defined by R.S. 14:2(B) or a sex offense as defined~~
 22 ~~by R.S. 15:541,~~ shall be eligible for parole consideration as follows:

23 (a) If the person was at least eighteen years of age and under the age of
 24 twenty-five years at the time he was sentenced to life imprisonment, he shall be
 25 eligible for parole consideration if all of the following conditions have been met:

26 (i) The person has served at least twenty~~five~~ years of the sentence imposed.

27 * * *

28 Section 2. The provisions of this Act shall apply to persons committed to the
 29 Department of Public Safety and Corrections regardless of his date of conviction.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ashley Menou.

DIGEST

SB 424 Engrossed

2016 Regular Session

Martiny

Present law provides that a person convicted of a crime of violence and not otherwise ineligible for parole shall serve at least 85% of the sentence imposed before being eligible for parole. Provides that, except for a life sentence for a crime of violence or a sex crime, a person serving a life sentence shall not be eligible for parole consideration until his life sentence has been commuted to a fixed term of years. Also provides for parole eligibility for a person sentenced to life imprisonment who was under the age of 18 at the time of commission of the crime, including a crime of violence, if certain conditions are met.

Present law provides for parole eligibility for a person committed to DOC for a term or terms of imprisonment, with or without benefit of parole, for 30 years or more upon serving at least 25 years of the term in actual custody and age 45 or older.

Present law further provides an exception from such parole eligibility for a person:

- (1) Serving a life sentence unless the sentence has been commuted to a fixed term of years.
- (2) Convicted of armed robbery.
- (3) Convicted of a crime of violence.
- (4) Convicted of a sex offense.

Proposed law provides parole eligibility to a person committed to DOC to serve a life sentence or for a term or terms of imprisonment, with or without benefit of parole, for 30 years or more upon serving at least 20 years in actual custody. Provides proposed law does not apply to persons serving a life sentence for a sex offense or sentenced to death, but does apply any person who is convicted a first time of a crime of violence or a second time of a crime of violence if the first conviction was not a crime of violence.

Present law provides for parole eligibility for a person committed to DOC for a term or terms of imprisonment with or without benefit of parole who has served at least 10 years in actual custody, is age 60 or above and all of the following conditions are met:

- (1) The person was not convicted of a crime of violence or an offense which would have been a crime of violence.
- (2) The person was not convicted of a sex offense or an offense which would have been a sex offense.
- (3) The person has not committed any major disciplinary offenses for one year prior to the parole hearing date.
- (4) The person has completed 100 hours of prerelease programming.
- (5) The person has completed substance abuse treatment, if applicable.
- (6) The person has obtained a GED credential.
- (7) The person has obtained a low-risk designation.

Proposed law provides parole eligibility for a person sentenced to life or sentenced to a term or terms of imprisonment if, upon reaching age 60, they have served at least 10 years of the term in actual custody and if all of the following conditions are met:

- (1) The person has been convicted a first time of a crime of violence or convicted a second time of a crime of violence if their first conviction was not a crime of violence, regardless of the date of conviction.
- (2) The person has not committed any major disciplinary offenses for one year prior to the parole hearing date.
- (3) The person has completed 100 hours of prerelease programming.
- (4) The person has completed substance abuse treatment, if applicable.
- (5) The person has obtained a GED credential.
- (6) The person has obtained a low-risk designation.

Present law provides that no person shall be eligible for parole consideration who has been convicted of armed robbery and denied parole eligibility and no prisoner serving a life sentence shall be eligible for parole consideration until his life sentence has been commuted to a fixed term of years.

Proposed law deletes present law.

Present law provides that no person sentenced as a serial sexual offender shall be eligible for parole.

Proposed law retains present law and further excludes a person with a death sentence from parole eligibility.

Present law provides that no person may be paroled which there is pending against him any indictment or information for any crime suspected of having been committed by him while a prisoner.

Proposed law retains present law.

Present law requires a person convicted of a crime of violence, not otherwise ineligible for parole, to serve at least 85% of their sentence before being eligible for parole. Requires notice to the victim or victim's family when they have completed the victim's notice and registration form.

Proposed law deletes present law and provides that a person convicted of a crime of violence and sentenced to a term or terms of years shall be eligible for parole consideration upon serving 20 years in actual custody. Proposed law retains present law's victim's notice provisions.

Present law provides parole eligibility for a person serving a life sentence, with or without the benefit of parole, who was not convicted of a sex offense or an offense that would constitute a crime of violence, if the person was at least 18 and under 25 at the time he was sentenced to life imprisonment and all of the following conditions are met:

- (1) The person has served at least 25 years of the sentence.
- (2) The person has obtained a low risk designation.
- (3) The person has not committed any major disciplinary offenses for one year prior to

the parole hearing date.

- (4) The person has completed the mandatory minimum of 100 hours of prerelease programming.
- (5) The person has completed substance abuse treatment, if applicable.
- (6) The person has obtained a GED credential.

Proposed law provides parole eligibility for any person that was at least 18 and under 25 at the time of sentencing and serving a life sentence, with or without the benefit of parole, regardless of the date of conviction, if they have served at least 20 years of the sentence imposed.

Proposed law retains the six conditions in present law for such persons.

Effective August 1, 2016.

(Amends R.S. 15:574.4(A)(2), (A)(4)(intro para), (A)(4)(a), (B)(1), (B)(2)(intro para), (B)(2)(a)(i))

Summary of Amendments Adopted by Senate

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

1. Makes technical corrections.
2. Regarding parole eligibility for persons serving a life sentence or a term of 30 or more years, deletes present law requirement of age 45 or above and changes from excluding eligibility for persons serving a life sentence as a serial sexual offender to excluding eligibility for persons serving a life sentence for a sex offense.
3. Regarding parole eligibility for persons committed to DOC who have served at least 10 years in custody and are age 60 or above, removes condition of eligibility that if person is convicted of a second crime of violence offense, the first offense can not be a sex offense.
4. Adds exclusion for persons with a death sentence from parole eligibility.
5. Regarding parole eligibility for persons convicted of a crime of violence, add condition of 20 years in actual custody.
6. Regarding parole eligibility for persons serving a life sentence, removes qualification regarding crimes of violence for parole eligibility and removes prohibition from eligibility for persons convicted of a sex offense.
7. Deletes from bill provisions regarding persons serving a life sentence who were under the age of 18 at the time of the commission of the offense.
8. Adds provision applying Act to persons committed to DOC regardless of the date of conviction.