

2021 Regular Session

HOUSE BILL NO. 479

BY REPRESENTATIVE VILLIO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/SENTENCING: Provides with respect to diminution of sentence and parole eligibility

1 AN ACT

2 To amend and reenact R.S. 15:571.3(A)(1) and (B), to enact R.S. 15:574.4(K) and 574.22,
3 and to repeal R.S. 15:571.3(C) and (D), relative to criminal sentencing; to provide
4 for diminution of sentence; to provide for the rate of diminution of sentence in
5 certain circumstances; to provide for eligibility for diminution of sentence in certain
6 circumstances; to provide for parole eligibility; to eliminate parole eligibility in
7 certain circumstances; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 15:571.3(A)(1) and (B) are hereby amended and reenacted and R.S.
10 15:574.4(K) and 574.22 are hereby enacted to read as follows:

11 §571.3. Diminution of sentence for good behavior

12 A.(1) Every prisoner in a parish prison convicted of an offense and sentenced
13 to imprisonment without hard labor, ~~except a prisoner convicted a second time of a~~
14 ~~crime of violence as defined by R.S. 14:2(B),~~ may earn a diminution of sentence, to
15 be known as "good time", by good behavior and performance of work or self-
16 improvement activities, or both. The amount of diminution of sentence allowed
17 under this Paragraph shall be at the rate of thirty days for every thirty days in actual
18 custody, ~~except for a prisoner convicted a first time of a crime of violence, as defined~~
19 ~~in R.S. 14:2(B), who shall earn diminution of sentence at the rate of three days for~~
20 ~~every seventeen days in actual custody held on the imposed sentence, including, in~~

1 ~~either case~~, time spent in custody with good behavior prior to sentencing for the
2 particular sentence imposed as authorized by Code of Criminal Procedure Article
3 880.

4 * * *

5 B.(1)(a) ~~Unless otherwise prohibited, every~~ Every offender in the custody
6 of the department who has been convicted of a felony, ~~except an offender convicted~~
7 ~~a second time of a crime of violence as defined by R.S. 14:2(B)~~; and sentenced to
8 imprisonment for a stated number of years or months, may earn, in lieu of incentive
9 wages, a diminution of sentence by good behavior and performance of work or
10 self-improvement activities, or both, to be known as "good time". Those offenders
11 serving life sentences will be credited with good time earned which will be applied
12 toward diminution of their sentences at such time as the life sentences might be
13 commuted to a specific number of years. The secretary shall establish regulations
14 for awarding and recording of good time and shall determine when good time has
15 been earned toward diminution of sentence. The amount of diminution of sentence
16 allowed under the provisions of this Section shall be at the rate of ~~thirteen~~ three days
17 for every ~~seven~~ seventeen days in actual custody served on the imposed sentence,
18 including time spent in custody with good behavior prior to sentencing for the
19 particular sentence imposed as authorized by the provisions of Code of Criminal
20 Procedure Article 880.

21 ~~(b) The provisions of Subparagraph (a) of this Paragraph shall be applicable~~
22 ~~to offenders convicted of offenses on or after January 1, 1992, and who are not~~
23 ~~serving a sentence for the following offenses:~~

24 ~~(i) A sex offense as defined in R.S. 15:541.~~

25 ~~(ii) A crime of violence as defined in R.S. 14:2(B).~~

26 ~~(iii) Any offense which would constitute a crime of violence as defined in~~
27 ~~R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, regardless of the date of~~
28 ~~conviction.~~

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 479 Engrossed

2021 Regular Session

Villio

Abstract: Removes exceptions related to diminution of sentence, reduces the rate of diminution for certain offenders in the custody of the Dept. of Public Safety and Corrections (the "department"), and removes parole eligibility for persons committed to the department for an offense committed on or after Aug. 1, 2021.

Present law (R.S. 15:571.3(A)(1)) provides that every prisoner in a parish prison convicted of an offense and sentenced to imprisonment without hard labor, except a prisoner convicted a second time of a crime of violence, may earn a diminution of sentence, to be known as "good time", by good behavior and performance of work or self-improvement activities, or both.

Present law further provides that the amount of diminution of sentence of certain prisoners in parish prison shall be at the rate of 30 days for every 30 days in actual custody, except for a prisoner convicted a first time of a crime of violence, who shall earn diminution of sentence at the rate of three days for every 17 days in actual custody held on the imposed sentence, including, in either case, time spent in custody with good behavior prior to sentencing for the particular sentence imposed as authorized by present law (C.Cr.P. Art. 880).

Proposed law removes the exceptions for a prisoner in parish prison convicted a second time of a crime of violence.

Present law (R.S. 15:571.3(B)(1)(a)) provides that every offender in the custody of the department who has been convicted of a felony, except an offender convicted a second time of a crime of violence, and sentenced to imprisonment for a stated number of years or months, may earn good time in lieu of incentive wages. Those offenders serving life sentences will be credited with good time earned which will be applied toward diminution of their sentences at such time as the life sentences might be commuted to a specific number of years.

Proposed law removes the exception for an offender in the custody of the department convicted a second time of a crime of violence.

Present law provides that the amount of diminution of sentence allowed to certain offenders in the custody of the department shall be at the rate of 13 days for every seven days in actual custody served on the imposed sentence, including time spent in custody with good behavior prior to sentencing for the particular sentence imposed.

Proposed law changes the amount of diminution from a rate of 13 days for every seven days in actual custody to three days for every 17 days in actual custody.

Proposed law shall apply only to certain offenders in the custody of the department who commit an offense on or after Aug. 1, 2021.

Present law (R.S. 15:571.3(B)(1)(b)) provides that present law provisions relative to good time for certain offenders in the custody of the department shall be applicable to offenders convicted of offenses on or after Jan. 1, 1992, and who are not serving a sentence for a sex offense or a crime of violence.

Proposed law repeals present law.

Present law (R.S. 15:571.3(B)(2)(a)) provides that an offender in the custody of the department convicted of a crime of violence, without a prior conviction of a crime of violence or a sex offense, shall earn diminution of sentence at a rate of one day for every three days in actual custody held on the imposed sentence, including time spent in custody with good behavior prior to sentencing for the particular sentence imposed. Present law does not apply to an offender if his instant conviction is for a crime that is listed both as a crime of violence and a sex offense.

Present law applies only to offenders who commit an offense or whose probation or parole is revoked on or after Nov. 1, 2017.

Proposed law repeals present law.

Present law (R.S. 15:571.3(C) and (D)) provides that diminution of sentence shall not be allowed an inmate if he has been sentenced as an habitual offender, if the trial court prohibits the earning of such diminution of sentence of a person convicted of stalking, if the instant offense is a second offense crime of violence, or if the instant offense is a sex offense.

Proposed law repeals present law.

Present law (R.S. 15:574.4) provides conditions and criteria for parole eligibility for certain offenders, including juvenile offenders.

Proposed law provides that any person committed to the department for an offense committed on or after Aug. 1, 2021, shall not be eligible for parole.

Proposed law creates an exception to proposed law and allows parole for any person serving a sentence of life imprisonment for a conviction of first degree murder (R.S. 14:30) who was under the age of 18 years at the time of the commission of the offense and whose indictment for the offense is on or after Aug. 1, 2017, shall be eligible for parole consideration pursuant to the provisions of this Subsection if a judicial determination has been made that the person is entitled to parole eligibility pursuant to C.Cr.P. Art. 878.1(A) and all of the following conditions have been met:

- (1) The offender has served 25 years of the sentence imposed.
- (2) The offender has not committed any major disciplinary offenses in the 12 consecutive months prior to the parole hearing date.
- (3) The offender has completed the mandatory minimum of 100 hours of prerelease programming.
- (4) The offender has completed substance abuse treatment as applicable.
- (5) The offender has obtained a GED certification, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED certification due to a learning disability.
- (6) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the Dept. of Public Safety and Corrections.
- (7) The offender has completed a reentry program to be determined by the Dept. of Public Safety and Corrections.

(Amends R.S. 15:571.3(A)(1) and (B); Adds R.S. 15:574.4(K) and 574.22; Repeals R.S. 15:571.3(C) and (D))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Allow the possibility of parole for persons under the age of 18 who committed first degree murder, who have served at least 25 years of service, and who meet certain other conditions of present law.