

Regular Session, 2010

SENATE BILL NO. 494

BY SENATOR MARTINY

JUVENILE JUSTICE. Provides with respect to parole eligibility of certain juvenile offenders. (7/1/10)

1 AN ACT

2 To enact Children's Code Article 857(D), relative to parole eligibility; to provide for parole  
3 eligibility of certain juveniles upon reaching forty-five years of age and who have  
4 met certain conditions; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Children's Code Article 857(D) is hereby enacted to read as follows:

7 Art. 857. Transfers for criminal prosecution; authority

8 \* \* \*

9 **D. (1.) Notwithstanding any other provision of law to the contrary and**  
10 **unless eligible for parole at an earlier date, a child who has been transferred**  
11 **pursuant to this Article or Article 305 and who has subsequently been convicted**  
12 **of an offense committed at the time the child was fifteen or sixteen years of age**  
13 **shall be eligible for parole consideration upon reaching the age of forty-five**  
14 **years if the following circumstances are met:**

15 **(a) The offender has not committed any disciplinary offense in the**  
16 **twelve consecutive months prior to the parole eligibility date.**

17 **(b) The offender has completed the mandatory minimum of one**

1 **hundred hours of pre-release programming in accordance with R.S. 15:827.1.**

2 **(c) The offender has completed substance abuse treatment as applicable.**

3 **(d) The offender has obtained a GED, unless the offender has previously**  
 4 **obtained a high school diploma or is deemed by a certified educator as being**  
 5 **incapable of obtaining a GED due to a learning disability. If the offender is**  
 6 **deemed incapable of obtaining a GED, the offender must complete at least one**  
 7 **of the following:**

8 **(i) A literacy program.**

9 **(ii) An adult basic education program.**

10 **(iii) A job skills training program.**

11 **(e) The offender has obtained a low-risk level designation determined**  
 12 **by a validated risk assessment instrument approved by the secretary of the**  
 13 **Department of Public Safety and Corrections.**

14 **(2) The provisions of this Subsection shall only apply to offenses**  
 15 **occurring on or after July 1, 2010.**

16 Section 2. This Act shall become effective on July 1, 2010; if vetoed by the governor  
 17 and subsequently approved by the legislature, this Act shall become effective July 1, 2010,  
 18 or on the day following such approval, whichever is later.

---

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

---

#### DIGEST

Martiny (SB 494)

Present law provides for the transfer of juveniles accused of certain crimes to the appropriate court exercising criminal jurisdiction for prosecution.

Present law authorizes juvenile courts to conduct hearings to determine whether a child 14 years of age or older who is charged with certain crimes may be transferred to adult court for criminal prosecution.

Present law provides for automatic transfer provisions from juvenile court to adult court for a child who is 15 years of age or older for the prosecution of certain crimes once an indictment is returned or a continued custody hearing is held and probable cause is found.

Present law mandates that a 14 year old child who is transferred to adult court and who is subsequently convicted shall not be confined for such conviction beyond his 31<sup>st</sup> birthday.

Present law does not provide for parole eligibility for a child who is 15 or 16 years of age at the time of the commission of certain crimes and who is tried and convicted in adult court.

Present law defines "child" as any person under the age of 21, including an emancipated minor, who commits a delinquent act before attaining 17 years of age.

Proposed law provides that a 15 or 16 year old child who is tried and convicted of certain crimes in adult court shall become eligible for parole consideration at the age of 45 if the following circumstances are met:

- (1) The offender has not committed any disciplinary offense in the 12 consecutive months prior to the parole eligibility date.
- (2) The offender has completed the mandatory minimum of 100 hours of pre-release programming in accordance with law.
- (3) The offender has completed substance abuse treatment as applicable.
- (4) The offender has obtained a GED, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED due to a learning disability.
- (5) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.

Proposed law shall only be applied prospectively to offenses occurring on or after July 1, 2010.

Effective July 1, 2010.

(Adds Ch.C. Art. 857(D))

#### Summary of Amendments Adopted by Senate

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

1. Adds criteria that must be considered to determine whether an offender, who has committed a crime when he was 15 or 16, should be eligible for parole consideration.
2. Increase the age of eligibility for parole consideration from 31 to 45.
3. Makes technical changes.