

Regular Session, 2010

HOUSE BILL NO. 1013

BY REPRESENTATIVE RICHMOND

COURTS: Establishes the workforce development sentencing pilot project program in the Orleans Parish Criminal District Court and the Forty-First JDC

1 AN ACT

2 To enact R.S. 13:621.41(J) and 1343(C), relative to the Forty-First Judicial District Court
3 and the Criminal District Court for the parish of Orleans; to provide for the
4 implementation of the workforce development sentencing pilot project program for
5 the reentry division of the Forty-First Judicial District Court and the reentry division
6 of the Criminal District Court for the parish of Orleans; to provide for conditions and
7 procedures; to provide for applicability; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 13:621.41(J) and 1343(C) are hereby enacted to read as follows:

10 §621.41. Forty-First Judicial District

11 * * *

12 J. Participation in the workforce development pilot program as authorized
13 by the provisions of Paragraph (B)(3) of this Section shall be subject to the following
14 provisions:

15 (1) The court may recommend that a defendant participate in the workforce
16 development sentencing pilot project program if all of the following criteria are
17 satisfied:

18 (a) The defendant meets the eligibility requirements for participation in the
19 Offender Rehabilitation and Workforce Development Program as provided for in
20 R.S. 15:1199.7.

1 (b) The court determines that it is in the best interest of the community and
2 in the interest of justice that the defendant be sentenced to the Offender
3 Rehabilitation and Workforce Development Program.

4 (c) The defendant is not sentenced to a term of incarceration which exceeds
5 ten years.

6 (d) The defendant shall not have any prior felony convictions for any
7 offenses defined as a sex offense in R.S. 15:541.

8 (e) The crime before the court shall not be a crime of violence as defined in
9 R.S. 14:2(B), including domestic violence.

10 (f) Other criminal proceedings alleging commission of a crime of violence
11 as defined in R.S. 14:2(B) shall not be pending against the defendant.

12 (g) The crime before the court shall not be a charge of any crime that
13 resulted in the death of a person.

14 (2) Upon a determination that the defendant meets the eligibility criteria
15 provided for in Paragraph (1) of this Subsection, the court shall advise the defendant
16 that he or she may be eligible for enrollment in a court-authorized workforce
17 development pilot program.

18 (3) In offering a defendant the opportunity to request the program, the court
19 shall advise the defendant of the following:

20 (a) If the defendant is eligible to participate in the workforce development
21 pilot program, then the defendant shall waive the right to a trial. The defendant shall
22 enter a plea of guilty to the charge, with the stipulation that the defendant shall be
23 sentenced to custody of the Department of Public Safety and Corrections to
24 participate in the Offender Rehabilitation and Workforce Development Program and
25 after successful completion of that program, he may petition the court to be placed
26 on intensive reentry supervision by the court.

27 (b) The court may impose any conditions reasonably related to the
28 rehabilitation of the defendant.

1 (4) The defendant has the right to be represented by counsel at all stages of
2 a criminal prosecution and in any court hearing relating to the workforce
3 development pilot program. The defendant shall be represented by counsel during
4 the determination of eligibility to participate in the workforce development pilot
5 program at the time of the execution of the sentencing agreement and at any hearing
6 to discharge him from the program, unless the court finds and the record shows that
7 the defendant has knowingly and intelligently waived his right to counsel.

8 (5) The defendant shall agree to participation in the workforce development
9 pilot program.

10 (6) The judge shall consider the following factors in determining whether
11 workforce development sentencing is in the interests of justice and of benefit to the
12 defendant and the community:

13 (a) The nature of the crime charged and the circumstances surrounding the
14 crime.

15 (b) Any special characteristics or circumstances of the defendant.

16 (c) Whether there is a probability that the defendant will cooperate with and
17 benefit from the workforce development pilot program.

18 (d) Whether the available workforce development pilot program is
19 appropriate to meet the needs of the defendant.

20 (e) The impact of the defendant's sentencing upon the community.

21 (f) Recommendations, if any, of the district attorney.

22 (g) Recommendations, if any, of the involved law enforcement agency.

23 (h) Recommendations, if any, of the victim.

24 (i) Provisions for and the likelihood of obtaining restitution from the
25 defendant.

26 (j) Any mitigating circumstances.

27 (k) Any other circumstances reasonably related to the defendant's case.

28 (7)(a) If the judge determines that the defendant shall be enrolled in the
29 workforce development pilot program, the court shall accept the defendant's guilty

1 plea and sentence the defendant to the custody of the Department of Public Safety
2 and Corrections for participation in the Offender Rehabilitation and Workforce
3 Development Program under the terms and conditions of the workforce development
4 pilot program.

5 (b) If the judge determines that the defendant is not qualified for enrollment,
6 the judge shall state for the record the reasons for that determination.

7 (c) If the defendant successfully completes the Offender Rehabilitation and
8 Workforce Development Program and successfully completes all other requirements
9 of the workforce development pilot program, he may petition the court to be placed
10 on intensive reentry supervision by the court. If the defendant does not successfully
11 complete the Offender Rehabilitation and Workforce Development Program, the
12 court shall sentence the defendant to serve the remainder of his sentence in the
13 custody of the Department of Public Safety and Corrections.

14 * * *

15 §1343. Allotment of cases among judges; holding of preliminary examination not
16 ground for recusation

17 * * *

18 C. Participation in the workforce development pilot program as authorized
19 by R.S. 13:621.41(B)(3) shall be subject to the following provisions:

20 (1) The court may recommend that a defendant participate in the workforce
21 development pilot program if all of the following criteria are satisfied:

22 (a) The defendant meets the eligibility requirements for participation in the
23 Offender Rehabilitation and Workforce Development Program as provided for in
24 R.S. 15:1199.7.

25 (b) The court determines that it is in the best interest of the community and
26 in the interest of justice that the defendant be sentenced to the Offender
27 Rehabilitation and Workforce Development Program.

28 (c) The defendant is not sentenced to a term of incarceration which exceeds
29 ten years.

1 (d) The defendant shall not have any prior felony convictions for any
2 offenses defined as a sex offense in R.S. 15:541.

3 (e) The crime before the court shall not be a crime of violence as defined in
4 R.S. 14:2(B), including domestic violence.

5 (f) Other criminal proceedings alleging commission of a crime of violence
6 as defined in R.S. 14:2(B) shall not be pending against the defendant.

7 (g) The crime before the court shall not be a charge of any crime that
8 resulted in the death of a person.

9 (2) Upon a determination that the defendant meets the eligibility criteria
10 provided for in Paragraph (1) of this Subsection, the court shall advise the defendant
11 that he or she may be eligible for enrollment in a court-authorized workforce
12 development pilot program.

13 (3) In offering a defendant the opportunity to request the program, the court
14 shall advise the defendant of the following:

15 (a) If the defendant is eligible to participate in the workforce development
16 pilot program, then the defendant shall waive the right to a trial. The defendant shall
17 enter a plea of guilty to the charge, with the stipulation that the defendant shall be
18 sentenced to custody of the Department of Public Safety and Corrections to
19 participate in the Offender Rehabilitation and Workforce Development Program, and
20 after successful completion of that program, he may petition the court to be placed
21 on intensive reentry supervision by the court.

22 (b) The court may impose any conditions reasonably related to the complete
23 rehabilitation of the defendant.

24 (4) The defendant has the right to be represented by counsel at all stages of
25 a criminal prosecution and in any court hearing relating to the workforce
26 development pilot program. The defendant shall be represented by counsel during
27 the determination of eligibility to participate in the workforce development pilot
28 program at the time of the execution of the sentencing agreement and at any hearing

1 to discharge him from the program, unless the court finds and the record shows that
2 the defendant has knowingly and intelligently waived his right to counsel.

3 (5) The defendant shall agree to participation in the workforce development
4 pilot program.

5 (6) The judge shall consider the following factors in determining whether
6 workforce development sentencing is in the interests of justice and of benefit to the
7 defendant and the community:

8 (a) The nature of the crime charged and the circumstances surrounding the
9 crime.

10 (b) Any special characteristics or circumstances of the defendant.

11 (c) Whether there is a probability that the defendant will cooperate with and
12 benefit from the workforce development pilot program.

13 (d) Whether the available workforce development pilot program is
14 appropriate to meet the needs of the defendant.

15 (e) The impact of the defendant's sentencing upon the community.

16 (f) Recommendations, if any, of the district attorney.

17 (g) Recommendations, if any, of the involved law enforcement agency.

18 (h) Recommendations, if any, of the victim.

19 (i) Provisions for and the likelihood of obtaining restitution from the
20 defendant.

21 (j) Any mitigating circumstances.

22 (k) Any other circumstances reasonably related to the defendant's case.

23 (7)(a) If the judge determines that the defendant shall be enrolled in the
24 workforce development pilot program, the court shall accept the defendant's guilty
25 plea and sentence the defendant to the custody of the Department of Public Safety
26 and Corrections for participation in the Offender Rehabilitation and Workforce
27 Development Program under the terms and conditions of the workforce development
28 pilot program.

1 **(b) If the judge determines that the defendant is not qualified for enrollment,**
2 **the judge shall state for the record the reasons for that determination.**

3 **(c) If the defendant successfully completes the Offender Rehabilitation and**
4 **Workforce Development Program and successfully completes all other requirements**
5 **of the workforce development pilot program, he may petition the court to be placed**
6 **on intensive reentry supervision by the court. If the defendant does not successfully**
7 **complete the Offender Rehabilitation and Workforce Development Program, the**
8 **court shall sentence the defendant to serve the remainder of his sentence in the**
9 **custody of the Department of Public Safety and Corrections.**

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)]

Richmond

HB No. 1013

Abstract: Establishes the workforce development sentencing pilot project for the Orleans Parish Criminal District Court and the 41st JDC.

Present law authorizes the Orleans Parish Criminal District Court and the 41st JDC to establish reentry divisions.

Present law authorizes the court to develop a workforce development sentencing pilot project program.

Proposed law retains these provisions of present law.

Proposed law provides for the implementation of the workforce development sentencing pilot project program in the Orleans Parish Criminal District Court and the 41st JDC.

Proposed law provides that the court may recommend that a defendant participate in the workforce development pilot program if all of the following criteria are satisfied:

- (1) The defendant meets the eligibility requirements for participation in the Offender Rehabilitation and Workforce Development Program.
- (2) The court determines that it is in the best interest of the community and in the interest of justice that the defendant be sentenced to the Offender Rehabilitation and Workforce Development Program.
- (3) The defendant is not sentenced to a term of incarceration which exceeds 10 years.
- (4) The defendant shall not have any prior felony convictions for any offenses defined as a sex offense.
- (5) The crime before the court shall not be a crime of violence including domestic violence.

- (6) Other criminal proceedings alleging commission of a crime of violence shall not be pending against the defendant.
- (7) The crime before the court shall not be a charge of any crime that resulted in the death of a person.

Proposed law provides that if the defendant is eligible to participate in the workforce development pilot program, then the defendant shall waive the right to a trial. The defendant shall enter a plea of guilty to the charge, with the stipulation that the defendant shall be sentenced to custody of DPS&C to participate in the Offender Rehabilitation and Workforce Development Program, and after successful completion of that program, he may petition the court to be placed on intensive reentry supervision by the court.

Proposed law provides that if the judge determines that the defendant should be enrolled in the workforce development pilot program, the court shall accept the defendant's guilty plea and sentence the defendant to the custody of DPS&C Offender Rehabilitation and Workforce Development Program under the terms and conditions of the workforce development pilot program.

Proposed law provides that if the defendant successfully completes the Offender Rehabilitation and Workforce Development Program and successfully completes all other requirements of the workforce development pilot program, he may petition the court to be placed on intensive reentry supervision by the court. If the defendant does not successfully complete the Offender Rehabilitation and Workforce Development Program, the court shall sentence the defendant to serve the remainder of his sentence in the custody of DPS&C.

(Adds R.S. 13:621.41(J) and 1343(C))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Judiciary to the original bill.

1. Deleted the requirement that a defendant sentenced to participate in the Offender Rehabilitation and Workforce Development Program do so for a specified time period of not less than 24 months.

House Floor Amendments to the engrossed bill.

1. Changed the name of the program to the "Offender Rehabilitation and Workforce Development Program".
2. Made technical changes.