

2017 Regular Session

SENATE BILL NO. 139

BY SENATOR MARTINY

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

CRIMINAL JUSTICE. Provides relative to criminal justice. (7/1/17)

AN ACT

To amend and reenact Code of Criminal Procedure Arts. 893(A) and (B), the introductory paragraph of 899.1(A), (B), and (D), 900(A)(5), (6), and (7), and 903.1, R.S. 13:5304(B)(10)(b), and (c), and R.S. 15:571.3(B) and (D), 574.2(C)(1) and (2) and (D)(1), the introductory paragraph of (6), (8)(a), and (9), 574.4(A)(1) and (2), (B)(1) and (C)(2), 574.4.1(A)(1), 574.4.2(B), 574.4.3(A)(1), 574.6, 574.7(B), 574.9(D), (E), (F) and (G), 574.20, and 828(B) and (C), and to enact Code of Criminal Procedure Arts. 893(G), 895.6, and 895.7, and R.S. 15:574.2(C)(4), 574.4(F), 574.9(H), 827(A)(7) and 828(D), relative to criminal justice; to provide for alternatives to incarceration; to provide for release from incarceration and from supervision; to provide for felony probation and parole; to provide for suspension and deferral of sentence; to provide for the term of probation and of parole; to provide for extended probation periods; to provide for discharge credits for felony probation and for parole; to provide for the earning of discharge credits; to provide for the regulation of number of credits earned; to provide for methods to rescind credits; to provide for notice; to provide for the satisfaction of sentences; to provide for discharge from probation and from parole; to provide for administrative sanctions; to provide for

1 technical violations of probation and of parole; to authorize use of administrative
2 sanctions; to provide for a system of administrative rewards; to provide for probation
3 and for parole revocation; to provide for sentences imposed for technical violations
4 of probation and of parole; to provide for credit for time served; to provide for the
5 substance abuse probation program; to provide for diminution of sentence; to provide
6 for good time; to provide for earning rates for good time; to provide for the
7 committee on parole; to provide for meetings of the committee on parole; to provide
8 for voting; to provide for administrative parole; to provide for notice to victims; to
9 provide for notice for victim's spouse or next of kin; to provide for parole eligibility;
10 to provide for parole eligibility for offenders serving a life sentence; to provide for
11 parole hearings; to provide for conditions of parole; to provide for custody and
12 supervision of parolees; to provide for modification of parole; to provide for
13 suspension of probation and of parole; to provide for return to custody hearings; to
14 provide for detainers; to provide for enforceability of detainers; to provide for
15 medical parole; to authorize medical furloughs; to provide for the term of medical
16 parole and furlough; to provide for revocation of medical parole or furlough for
17 improved health; to provide for written case plans; to provide for classification and
18 treatment programs; to provide for credit for participation in certain programs; to
19 provide relative to good time for offenders sentenced as habitual offenders; to
20 provide for rulemaking; to provide for record collection; to provide for maintenance
21 of records; to provide for effective dates; and to provide for related matters.

22 Be it enacted by the Legislature of Louisiana:

23 Section 1. Code of Criminal Procedure Arts. 893(A) and (B), the introductory
24 paragraph of 899.1(A), (B), and (D), 900(A)(5), (6), and (7), and 903.1 are hereby amended
25 and reenacted and Code of Criminal Procedure Arts. 893(G), 895.6, and 895.7 are hereby
26 enacted to read as follows:

27 Art. 893. Suspension and deferral of sentence and probation in felony cases

28 A. When it appears that the best interest of the public and of the defendant
29 will be served, the court, after a first, ~~or second,~~ **or third** conviction of a noncapital

1 felony, may suspend, in whole or in part, the imposition or execution of either or
2 both sentences, where suspension is allowed under the law, and in either or both
3 cases place the defendant on probation under the supervision of the division of
4 probation and parole. The court shall not suspend the sentence of a conviction for an
5 offense that is designated in the court minutes as a crime of violence pursuant to
6 Article 890.3, except a first or second conviction of a Class D or E felony that
7 was not committed against a family member, household member, or dating
8 partner, or of a second conviction if the second conviction is for a violation of R.S.
9 14:73.5, 81.1, or 81.2. The period of probation shall be specified and shall not be less
10 than one year nor more than five three years. The suspended sentence shall be
11 regarded as a sentence for the purpose of granting or denying a new trial or appeal.
12 Supervised release as provided for by Chapter 3-E of Title 15 of the Louisiana
13 Revised Statutes of 1950 shall not be considered probation and shall not be limited
14 by the ~~five~~ three-year period for probation provided for by the provisions of this
15 Paragraph.

16 B.(1)(a) Notwithstanding any other provision of law to the contrary,
17 when it appears that the best interest of the public and of the defendant will be
18 served, the court, after a fourth conviction of operating a vehicle while
19 intoxicated pursuant to R.S. 14:98, The court may suspend, in whole or in part, the
20 imposition or execution of the sentence when the defendant was not offered such
21 alternatives prior to his fourth conviction of operating a vehicle while
22 intoxicated and the following conditions exist:

23 (i) ~~The sentence is for a third conviction of any of the following:~~

24 (aa) ~~A noncapital felony for which a defendant could have his sentence~~
25 ~~suspended under Paragraph A of this Article had the conviction been for a first or~~
26 ~~second offense.~~

27 (bb) ~~A violation of the Uniform Controlled Dangerous Substances Law.~~

28 (cc) ~~A third conviction of operating a vehicle while intoxicated in violation~~
29 ~~of R.S. 14:98.~~

1 (ii) It appears that suspending the sentence is in the best interest of the public
2 and the defendant.

3 ~~(iii)~~**(a)** The district attorney consents to the suspension of the sentence.

4 ~~(iv)~~**(b)** The court orders the defendant to do any of the following:

5 ~~(aa)~~**(i)** Enter and complete a program provided by the drug division of the
6 district court pursuant to R.S. 13:5301 et seq. ~~When a case is assigned to the drug~~
7 ~~division probation program pursuant to the provisions of R.S. 13:5301 et seq., with~~
8 ~~the consent of the district attorney, the court may place the defendant on probation~~
9 ~~for a period of not more than eight years if the court determines that successful~~
10 ~~completion of the program may require that period of probation to exceed the five-~~
11 ~~year limit. If necessary to assure successful completion of the drug division~~
12 ~~probation program, the court may extend the duration of the probation period. The~~
13 ~~period of probation as initially fixed or as extended shall not exceed eight years.~~

14 ~~(bb)~~**(ii)** Enter and complete an established driving while intoxicated court or
15 sobriety court program, ~~as agreed upon by the trial court and the district attorney.~~
16 ~~When a case is assigned to an established driving while intoxicated court or sobriety~~
17 ~~court program, with the consent of the district attorney, the court may place the~~
18 ~~defendant on probation for a period of not more than eight years if the court~~
19 ~~determines that successful completion of the program may require that period of~~
20 ~~probation to exceed the five-year limit. If necessary to assure successful completion~~
21 ~~of the drug division probation program, the court may extend the duration of the~~
22 ~~probation period. The period of probation as initially fixed or as extended shall not~~
23 ~~exceed eight years.~~

24 ~~(ee)~~**(iii)** Reside for a minimum period of one year in a facility which
25 conforms to the Judicial Agency Referral Residential Facility Regulatory Act, R.S.
26 40:2852.

27 ~~(dd)~~**(iv)** Enter and complete the Swift and Certain Probation Pilot Program
28 established pursuant to R.S. 13:5371 et seq. ~~When a case is assigned to this pilot~~
29 ~~program, with the consent of the district attorney, the court may place the defendant~~

1 of probation as initially fixed or as extended shall not exceed eight years.

2 * * *

3 Art. 895.6. Discharge credits; probation

4 A. Every defendant on felony probation pursuant to Article 895 shall
5 earn discharge credits for compliance with the terms and conditions of
6 probation supervision to reduce the term of supervision. A defendant shall earn
7 credits equal to thirty days for every calendar month of compliance with the
8 terms and conditions of his probation. Credits shall begin to accrue for eligible
9 defendants after the first full month of compliance with supervision conditions.

10 A defendant shall not receive credits for any partial calendar month of felony
11 probation.

12 B. If the chief probation and parole officer, upon recommendation by a
13 probation officer, has reasonable cause to believe that a defendant on felony
14 probation has not been compliant with the conditions of his probation in a given
15 calendar month, he shall notify the sentencing judge within five business days
16 of learning of the incident of noncompliance. If, within five business days of
17 receiving the notification, the judge does not make a ruling to the contrary,
18 thirty days of earned discharge credits will be rescinded from the defendant.
19 Credits may only be rescinded for a month in which the defendant is found not
20 to be in compliance.

21 C. The Department of Corrections shall develop written policies and
22 procedures for the implementation of earned discharge credits for defendants
23 on felony probation supervision provided for by the provisions of this Article.
24 The policies and procedures shall include, but not be limited to, written
25 guidelines regarding the process to earn discharge credits and the application
26 of the credits toward the reduction of the term of supervision. The Department
27 of Corrections shall also collect data on the implementation of earned discharge
28 credits, including the names of defendants that earned credits, how many
29 credits are applied to each defendant, and reductions to supervision periods at

1 the time of discharge.

2 D. The Department of Corrections shall maintain a record of credits
3 earned by each defendant under this Article. Every six months from the date
4 the defendant is placed on probation, the department shall notify the defendant
5 of the current earned compliance discharge date for the defendant's term of
6 supervision and the overall sentence of the defendant.

7 E. The Department of Corrections shall notify the court no less than sixty
8 days prior to the expected discharge date. Nothing in this Article shall prohibit
9 the department from requesting that the court terminate a sentence prior to the
10 discharge date.

11 F. When a defendant's total sentence is satisfied through a combination
12 of time served on felony probation and earned discharge credits, the supervising
13 agency shall order the discharge of the sentence of the defendant.

14 G. For purposes of this Article, "calendar month of compliance" shall
15 be defined as any calendar month in which none of the following occur:

16 (1) A violation report is submitted by a probation officer.

17 (2) An administrative sanction is issued by a probation officer pursuant
18 to Article 899.1.

19 (3) A defendant absconds from supervision in any of the following ways:

20 (a) Fails to report within five business days after release from custody.

21 (b) Fails to report, as ordered by the court or directed by the probation
22 officer, for a scheduled meeting with a probation officer.

23 (c) Fails to make contact with a probation officer within thirty days of
24 a missed meeting.

25 (d) The defendant serves a term of imprisonment pursuant to Article
26 900.

27 Art. 895.7. Discharge credits; parole

28 A. Every defendant on parole pursuant to R.S. 15:574.4.2 shall earn
29 discharge credits for compliance with the terms and conditions of parole

1 supervision to reduce the term of supervision. A defendant shall earn credits
2 equal to thirty days for every calendar month of compliance with the terms and
3 conditions of his parole supervision. Credits shall begin to accrue for eligible
4 defendants after the first full month of compliance with supervision conditions.
5 A defendant shall not receive credits for any partial calendar month of parole.

6 B. If the chief probation and parole officer, upon recommendation by a
7 parole officer, has reasonable cause to believe that a defendant on parole has
8 not been compliant with the conditions of his parole in a given calendar month,
9 he shall notify the sentencing judge within five business days of learning of the
10 incident of noncompliance. If, within five business days of receiving the
11 notification, the judge does not make a ruling to the contrary, thirty days of
12 earned discharge credits shall be rescinded from the defendant. Credits may
13 only be rescinded for a month in which the defendant is found not to be in
14 compliance.

15 C. The Department of Corrections shall develop written policies and
16 procedures for the implementation of earned discharge credits for defendants
17 on parole supervision provided for by the provisions of this Article. The policies
18 and procedures shall include but not be limited to written guidelines regarding
19 the process to earn discharge credits and the application of the credits toward
20 the reduction of the term of supervision. The Department of Corrections shall
21 also collect data on the implementation of earned discharge credits, including
22 the names of defendants that earned credits, how many credits are applied to
23 each defendant, and reductions to supervision periods at the time of discharge.

24 D. The Department of Corrections shall maintain a record of credits
25 earned by each defendant under this Article. Every six months from the date
26 the defendant is released on parole, the department shall notify the defendant
27 of the current earned compliance discharge date for the defendant's term of
28 supervision and the overall sentence of the defendant.

29 E. The Department of Corrections shall notify the court no less than sixty

1 days prior to the expected discharge date. Nothing in this Article shall prohibit
2 the department from requesting that the court terminate a sentence prior to the
3 termination date.

4 F. When a defendant's total sentence is satisfied through a combination
5 of time served on parole and earned discharge credits, the Department of
6 Corrections, without order by the committee, shall discharge the defendant.

7 G. For purposes of this Article, "calendar month of compliance" shall
8 be defined as any calendar month in which none of the following occur:

9 (1) A violation report is submitted by a parole officer.

10 (2) An administrative sanction is issued by a parole officer pursuant to
11 R.S. 15:574.7.

12 (3) A defendant absconds from supervision in any of the following ways:

13 (a) Fails to report within five business days after release from custody.

14 (b) Fails to report, as ordered by the parole board or directed by the
15 parole officer, for a scheduled meeting with a parole officer.

16 (c) Fails to make contact with a parole officer within thirty days of a
17 missed meeting.

18 (d) The defendant serves a term of imprisonment pursuant to R.S.
19 15:574.9.

20 * * *

21 Art. 899.1. Administrative sanctions for technical violations

22 ~~A. At the time of sentencing, the court may make a determination as to~~
23 ~~whether a defendant is eligible for the imposition of administrative sanctions as~~
24 ~~provided for in this Article. If authorized to do so by the sentencing court, each time~~
25 ~~a **if** a defendant violates a condition of his probation, a probation agency may **shall**~~
26 ~~**be authorized to** use administrative sanctions to address a technical violation~~
27 ~~committed by a defendant when all of the following occur:~~

28 * * *

29 B. The department shall promulgate rules to implement the provisions of this

1 Article to establish the following:

2 (1)~~(a)~~ A system of structured, administrative sanctions which shall be
3 imposed for technical violations of probation and which shall take into consideration
4 the following factors:

5 ~~(a)~~~~(i)~~ The severity of the violation behavior.

6 ~~(b)~~~~(ii)~~ The prior violation history.

7 ~~(c)~~~~(iii)~~ The severity of the underlying criminal conviction.

8 ~~(d)~~~~(iv)~~ The criminal history of the probationer.

9 ~~(e)~~~~(v)~~ Any special circumstances, characteristics, or resources of the
10 probationer.

11 ~~(f)~~~~(vi)~~ Protection of the community.

12 ~~(g)~~~~(vii)~~ Deterrence.

13 ~~(h)~~~~(viii)~~ The availability of appropriate local sanctions, including but not
14 limited to jail, treatment, community service work, house arrest, electronic
15 surveillance, restitution centers, work release centers, day reporting centers, or other
16 local sanctions.

17 **(b) Incarceration shall not be used for the first or second lowest-level**
18 **violations, including but not limited to a first positive drug test; association with**
19 **known felons or persons involved in criminal activity; changing residence**
20 **without permission; failure to initially report as required; failure to pay**
21 **restitution up to three months; failure to report as instructed; travel without**
22 **permission; and unemployment and failure to seek employment within ninety**
23 **days.**

24 **(c) Incarceration shall not be used for first or second violations of alcohol**
25 **use or admission, except for defendants convicted of operating a vehicle while**
26 **intoxicated; convicted of domestic abuse battery committed by one family**
27 **member, household member, or dating partner against another; or convicted**
28 **of violation of protective order committed by one family member, household**
29 **member, or dating partner against another.**

1 (2) Procedures to provide a probationer with written notice of the right to a
2 probation violation hearing to determine whether the probationer violated the
3 conditions of probation alleged in the violation report and the right to be represented
4 by counsel at state expense at that hearing if financially eligible.

5 (3) Procedures for a probationer to provide written waiver of the right to a
6 probation violation hearing, to admit to the violation or affirmatively choose not to
7 contest the violation alleged in the probation violation report, and to consent to the
8 imposition of administrative sanctions by the department.

9 (4) The level and type of sanctions that may be imposed by probation officers
10 and other supervisory personnel.

11 (5) The level and type of violation behavior that warrants a recommendation
12 to the court that probation be revoked.

13 (6) Procedures notifying the probationer, the district attorney, the defense
14 counsel of record, and the court of probation of a violation admitted by the
15 probationer and the administrative sanctions imposed.

16 (7) Such other policies and procedures as are necessary to implement the
17 provisions of this Article and to provide adequate probation supervision.

18 **(8) A system of structured administrative rewards for compliance with**
19 **conditions and positive behavior that exceeds the conditions of probation.**

20 * * *

21 D. For purposes of this Article, "technical violation" means any violation of
22 a condition of probation, ~~except for an allegation of a subsequent criminal act.~~
23 ~~Notwithstanding any provision of law to the contrary, if the subsequent alleged~~
24 ~~criminal act is misdemeanor possession of marijuana or tetrahydrocannabinol, or~~
25 ~~chemical derivatives thereof, as provided in R.S. 40:966(E)(1), it shall be considered~~
26 ~~a "technical violation".~~ **"Technical violation" shall not include any of the**
27 **following:**

28 **(1) A new felony conviction.**

29 **(2) A conviction for an intentional misdemeanor directly affecting the**

1 person.

2 (3) An allegation of a subsequent criminal act that if proven would be a
3 crime of violence as defined in R.S. 14:2(B).

4 (4) An allegation of a subsequent criminal act that if proven would be a
5 sex offense as defined in R.S. 15:541.

6 (5) An allegation of domestic abuse battery as defined in R.S. 14:35.3
7 committed by one family member, household member, or dating partner
8 against another.

9 (6) An allegation of violation of protective order as defined in R.S. 14:79
10 committed by one family member, household member, or dating partner
11 against another.

12 Art. 900. Violation hearing; sanctions

13 A. After an arrest pursuant to Article 899, the court shall cause a defendant
14 who continues to be held in custody to be brought before it within thirty days for a
15 hearing. If a summons is issued pursuant to Article 899, or if the defendant has been
16 admitted to bail, the court shall set the matter for a violation hearing within a
17 reasonable time. The hearing may be informal or summary. If the court decides that
18 the defendant has violated, or was about to violate, a condition of his probation it
19 may:

20 * * *

21 (5) Order that the probation be revoked. In the event of revocation the
22 defendant shall serve the sentence suspended, ~~with or without~~ subject to credit for
23 ~~the time served on probation at the discretion of the court~~ or in a substance abuse
24 program. If the imposition of sentence was suspended, the defendant shall serve the
25 sentence imposed by the court at the revocation hearing.

26 (6)(a) Notwithstanding the provisions of Subparagraph (A)(5) of this Article,
27 any defendant who has been placed on probation by the drug division probation
28 program pursuant to R.S. 13:5304, and who has had his probation revoked under the
29 provisions of this Article for a technical violation of drug division probation as

1 determined by the court, may be ordered to be committed to the custody of the
2 Department of Public Safety and Corrections and be required to serve a sentence of
3 not more than twelve months without diminution of sentence in the intensive
4 incarceration program pursuant to the provisions of R.S. 15:574.4.4. Upon successful
5 completion of the program, the defendant shall return to active, supervised probation
6 with the drug division probation program for a period of time as ordered by the court,
7 subject to any additional conditions imposed by the court and under the same
8 provisions of law under which the defendant was originally sentenced. If an offender
9 is denied entry into the intensive incarceration program for physical or mental health
10 reasons or for failure to meet the department's suitability criteria, the department
11 shall notify the sentencing court for resentencing in accordance with the provisions
12 of Article 881.1.

13 (b) Notwithstanding the provisions of Subparagraph (A)(5) of this Article,
14 any defendant who has been placed on probation by the court ~~for the conviction of~~
15 ~~an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex~~
16 ~~offense as defined in R.S. 15:541(24);~~ and who has had his probation revoked under
17 the provisions of this Article for ~~his first~~ a technical violation of his probation as
18 determined by the court, shall be required to serve ~~a sentence of not more than ninety~~
19 ~~days without diminution of sentence,~~ **without diminution of sentence, as follows:**

20 **(i) For the first technical violation, not more than fifteen days.**

21 **(ii) For the second technical violation, not more than thirty days.**

22 **(iii) For a third or subsequent technical violation, not more than**
23 **forty-five days.**

24 (c) The defendant shall be given credit for time served prior to the revocation
25 hearing for time served in actual custody while being held for a technical violation
26 in a local detention facility, state institution, or out-of-state institution pursuant to
27 Article 880. The term of the revocation for a technical violation shall begin on the
28 date the court orders the revocation. Upon completion of the imposed sentence for
29 the technical revocation, the defendant shall return to active and supervised probation

1 for a period equal to the remainder of the original period of probation subject to any
2 additional conditions imposed by the court. ~~The provisions of this Paragraph shall~~
3 ~~apply only to the defendant's first revocation for a technical violation.~~

4 **(d) Notwithstanding any other provision of law to the contrary, if a**
5 **defendant completes ninety days of court-recommended substance abuse**
6 **treatment he shall receive ninety days credit toward his term of probation.**

7 ~~(e)~~**(e)** A "technical violation", as used in this Paragraph, means any violation
8 **except a felony conviction.** ~~except it shall not include any of the following:~~

9 ~~(i) Being arrested, charged, or convicted of any of the following:~~

10 ~~(aa) A felony.~~

11 ~~(bb) A violation of any provision of Title 40 of the Louisiana Revised~~
12 ~~Statutes of 1950, except for misdemeanor possession of marijuana or~~
13 ~~tetrahydrocannabinol, or chemical derivatives thereof, as provided in R.S.~~
14 ~~40:966(E)(1), which shall be considered a "technical violation".~~

15 ~~(cc) Any intentional misdemeanor directly affecting the person.~~

16 ~~(dd) At the discretion of the court, any attempt to commit any intentional~~
17 ~~misdemeanor directly affecting the person.~~

18 ~~(ee) At the discretion of the court, any attempt to commit any other~~
19 ~~misdemeanor.~~

20 ~~(ii) Being in possession of a firearm or other prohibited weapon.~~

21 ~~(iii) Failing to appear at any court hearing.~~

22 ~~(iv) Absconding from the jurisdiction of the court.~~

23 ~~(v) Failing to satisfactorily complete a drug court program if ordered to do~~
24 ~~so as a special condition of probation.~~

25 ~~(vi) At the discretion of the court, failing to report to the probation officer for~~
26 ~~more than one hundred twenty consecutive days.~~

27 ~~(7) Extend the period of probation, provided the total amount of time served~~
28 ~~by the defendant on probation for any one offense shall not exceed the maximum~~
29 ~~period of probation provided by law.~~

* * *

Art. 903.1. Substance abuse probation program; eligibility

A. In order to be eligible for the substance abuse probation program, the defendant must be charged with a violation of a statute of this state relating to the use and possession of or possession with intent to distribute any narcotic drugs, coca leaves, marijuana, stimulants, depressants, or hallucinogenic drugs, or where there is a significant relationship between the use of alcohol or drugs and the crime before the court. shall not be excluded from participation pursuant to the provisions of Paragraph B of this Article and shall be charged with any of the following offenses:

(1) ~~Felony possession of a controlled dangerous substance as defined in R.S. 40:966(C), 967(C), 968(C), or 969(C).~~

(2) ~~Except as provided in Subparagraph (3) of this Paragraph, possession with intent to distribute a controlled dangerous substance as defined in R.S. 40:966(A), 967(A), 968(A), or 969(A) where the offense involves less than twenty-eight grams of the controlled dangerous substance.~~

(3) ~~Possession with intent to distribute marijuana or synthetic cannabinoids as defined in R.S. 40:966(A) where the offense involves less than one pound of marijuana or synthetic cannabinoids.~~

B. The provisions of this Article shall not apply to any defendant who has been convicted of a crime of violence as defined in R.S. 14:2(B), **except for Class D and E felonies,** or a sex offense as defined in R.S. 15:541, or any defendant who has participated in or declined to participate in a drug division probation program as provided for in R.S. 13:5301 et seq.

Section 2. R.S. 13:5304(B)(10)(b) and (c) are hereby amended and reenacted to read as follows:

§5304. The drug division probation program

* * *

B. Participation in probation programs shall be subject to the following

1 provisions:

2 * * *

3 (10) In order to be eligible for the drug division probation program, the
4 defendant must satisfy each of the following criteria:

5 * * *

6 (b) The crime before the court cannot be a crime of violence as defined in
7 R.S. 14:2(B), **except for Class D and E felonies**, or an offense of domestic abuse
8 battery which is punishable by imprisonment at hard labor as provided in R.S.
9 14:35.3.

10 (c) Other criminal proceedings alleging commission of a crime of violence
11 as defined in R.S. 14:2(B), **except for Class D and E felonies**, cannot be pending
12 against the defendant.

13 * * *

14 Section 3. R.S. 15:571.3(B) and (D), 574.2(C)(1) and (2) and (D)(1), the
15 introductory paragraph of (6), (8)(a) and (9), 574.4(A)(1) and (2), (B)(1) and (C)(2),
16 574.4.1(A)(1), 574.4.2(B), 574.4.3(A)(1), 574.6, 574.7(B), 574.9(D), (E), (F), and (G),
17 574.20 and 828(B) and (C) are hereby amended and reenacted and R.S. 15:574.2(C)(4),
18 574.4(F), 574.9(H), 827(A)(7) and 828(D) are hereby enacted to read as follows:

19 §571.3. Diminution of sentence for good behavior

20 * * *

21 B.(1)(a) Unless otherwise prohibited, every ~~inmate~~ **offender** in the custody
22 of the department who has been convicted of a felony, except an ~~inmate~~ **offender**
23 convicted a second time of a crime of violence as defined by R.S. 14:2(B), and
24 sentenced to imprisonment for a stated number of years or months, may earn, in lieu
25 of incentive wages, a diminution of sentence by good behavior and performance of
26 work or self-improvement activities, or both, to be known as "good time". Those
27 ~~inmates~~ **offenders** serving life sentences will be credited with good time earned
28 which will be applied toward diminution of their sentences at such time as the life
29 sentences might be commuted to a specific number of years. The secretary shall

1 establish regulations for awarding and recording of good time and shall determine
2 when good time has been earned toward diminution of sentence. The amount of
3 diminution of sentence allowed under the provisions of this Section shall be at the
4 ~~rate of one and one-half day for every one day in actual custody served on the~~
5 ~~imposed sentence~~ **following rates**, including time spent in custody with good
6 behavior prior to sentencing for the particular sentence imposed as authorized by the
7 provisions of Code of Criminal Procedure Article 880.2

8 **(i) For offenders convicted of a Class D or E felony, thirteen days for**
9 **every seven days served on the imposed sentence.**

10 **(ii) For offenders convicted of a Class A, B, or C felony, one and one half**
11 **days for every one day in actual custody served on the imposed sentence.**

12 (b) The provisions of Subparagraph (a) of this Paragraph shall be applicable
13 to ~~persons~~ **offenders** convicted of offenses **or revoked on probation or parole** on
14 or after January 1, 1992 and who are not serving a sentence for the following
15 offenses:

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

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

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

21 **(2)(a) An inmate offender** convicted ~~a first time~~ of a crime of violence as
22 defined in R.S. 14:2(B), **without a prior conviction of a crime of violence as**
23 **defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541,** shall earn
24 diminution of sentence at a rate of ~~three~~ **seven** days for every ~~seventeen~~ **thirteen**
25 days in actual custody held on the imposed sentence, including time spent in custody
26 with good behavior prior to sentencing for the particular sentence imposed as
27 authorized by Code of Criminal Procedure Article 880.

28 **(b) The provisions of this Paragraph shall not apply to an offender if his**
29 **instant conviction is for a crime that is classified as both a crime of violence as**

1 **defined in R.S. 14:2(B) and a sex offense as defined in 15:541.**

2 **(c) The provisions of this Paragraph shall apply only to offenders**
 3 **convicted of offenses or revoked on probation or parole on or after July 1, 2017.**

4 ~~(3) A person shall not be eligible for diminution of sentence for good~~
 5 ~~behavior if he has been convicted of or pled guilty to, or where adjudication has been~~
 6 ~~deferred or withheld for, a violation of any one of the following offenses:~~

7 ~~(a) Rape (R.S. 14:41).~~

8 ~~(b) Aggravated or first degree rape (R.S. 14:42).~~

9 ~~(c) Forcible or second degree rape (R.S. 14:42.1).~~

10 ~~(d) Simple or third degree rape (R.S. 14:43).~~

11 ~~(e) Sexual battery (R.S. 14:43.1).~~

12 ~~(f) Second degree sexual battery (R.S. 14:43.2).~~

13 ~~(g) Oral sexual battery (R.S. 14:43.3).~~

14 ~~(h) Intentional exposure to AIDS virus (R.S. 14:43.5).~~

15 ~~(i) Repealed by Acts 2014, No. 602, §7, eff. June 12, 2014.~~

16 ~~(j) Repealed by Acts 2014, No. 602, §7, eff. June 12, 2014.~~

17 ~~(k) Felony carnal knowledge of a juvenile (R.S. 14:80).~~

18 ~~(l) Indecent behavior with juveniles (R.S. 14:81).~~

19 ~~(m) Pornography involving juvenile (R.S. 14:81.1).~~

20 ~~(n) Molestation of a juvenile or a person with a physical or mental disability~~
 21 ~~(R.S. 14:81.2).~~

22 ~~(o) Computer-aided solicitation of a minor (R.S. 14:81.3).~~

23 ~~(p) Crime against nature (R.S. 14:89).~~

24 ~~(q) Aggravated crime against nature (R.S. 14:89.1).~~

25 ~~(r) Sexual battery of persons with infirmities (R.S. 14:93.5).~~

26 ~~(4) Diminution of sentence shall not be allowed an inmate in the custody of~~
 27 ~~the Department of Public Safety and Corrections if the inmate has been convicted~~
 28 ~~one or more times under the laws of this state, any other state, or the federal~~
 29 ~~government of any one or more of the following crimes or attempts to commit any~~

1 of the following crimes:

- 2 (a) ~~Felony carnal knowledge of a juvenile.~~
- 3 (b) ~~Indecent behavior with juveniles.~~
- 4 (c) ~~Molestation of a juvenile or a person with a physical or mental disability.~~
- 5 (d) ~~Crime against nature as defined by R.S. 14:89(A)(2).~~
- 6 (e) ~~Aggravated crime against nature as defined by R.S. 14:89.1(A)(2).~~

7 * * *

8 D.**(1)** Diminution of sentence shall not be allowed an **inmate offender** in the
 9 custody of the Department of Public Safety and Corrections if the instant offense is
 10 a ~~second offense crime of violence as defined by R.S. 14:2(B)~~ **crime of violence as**
 11 **defined by R.S. 14:2(B) and the offender has two or more prior convictions for**
 12 **a crime of violence as defined by R.S. 14:2(B) or a sex offense as defined by R.S.**
 13 **15:541.**

14 **(2) Diminution of sentence shall not be allowed an offender in the**
 15 **custody of the Department of Public Safety and Corrections if the instant**
 16 **offense is a sex offense as defined by R.S. 15:541.**

17 * * *

18 §574.2. Committee on parole, Board of Pardons; membership; qualifications;
 19 vacancies; compensation; domicile; venue; meetings; quorum;
 20 panels; powers and duties; transfer of property to committee;
 21 representation of applicants before the committee; prohibitions

22 * * *

23 C.(1) The committee shall meet in a minimum of three-member panels at the
 24 adult correctional institutions on regular scheduled dates, not less than every three
 25 months. Such dates are to be determined by the chairman. Except as provided for in
 26 Paragraph (2) of this Subsection **or in cases where the offender is released**
 27 **pursuant to Paragraph (4) of this Subsection**, three votes of a three-member panel
 28 shall be required to grant parole, or, if the number exceeds a three-member panel, a
 29 unanimous vote of those present shall be required to grant parole.

1 following conditions are met:

2 (i) The offender has completed a case plan pursuant to R.S. 15:827(A)(7),
3 except as provided in Subparagraph (b) of this Paragraph.

4 (ii) A victim of the offender has been notified pursuant to Subsection D
5 of this Section and has not requested that the committee conduct a hearing.

6 (iii) The offender has not committed any major disciplinary offenses in
7 the twelve consecutive months prior to the administrative parole eligibility date.
8 A major disciplinary offense is an offense identified as a Schedule B offense by
9 the Department of Public Safety and Corrections in the Disciplinary Rules and
10 Procedures for Adult Offenders.

11 (iv) The offender has agreed to the conditions of supervision.

12 (v) For any offender convicted of a sex offense as defined in R.S. 15:541,
13 the committee and the offender have completed the requirements set forth in
14 R.S. 15:574.4.3.

15 (b) If the offender has met the conditions provided in Items (ii), (iii), (iv),
16 and (v) of Subparagraph (a) of this Paragraph, he shall still be released on
17 administrative parole if the case plan was not created for him or the incomplete
18 case plan was not the fault of the offender.

19 D. In accordance with the provisions of this Part, the committee on parole
20 shall have the following powers and duties:

21 (1) ~~To~~ Except as provided in Paragraph (C)(4) of this Section, to
22 determine the time and conditions of release on parole of any ~~person~~ offender who
23 has been convicted of a felony and sentenced to imprisonment, and confined in any
24 penal or correctional institution in this state.

25 * * *

26 (6) ~~To~~ Except as provided in Paragraph (C)(4) of this Section, to consider
27 all pertinent information with respect to each ~~prisoner~~ offender who is incarcerated
28 in any penal or correctional institution in this state at least one month prior to the
29 parole eligible date and thereafter at such other intervals as it may determine, which

1 information shall be a part of the ~~inmate's~~ **offender's** consolidated summary record
2 and which shall include:

3 * * *

4 (8)(a) To notify the district attorney of the parish where the conviction
5 occurred. The notification shall be in writing and shall be issued at least thirty days
6 prior to the hearing date. **For offenders eligible for release pursuant to Paragraph**
7 **(C)(4) of this Section, the notification shall be in writing and shall be issued at**
8 **least forty-five days prior to the offender's administrative parole eligibility date.**

9 The district attorney of the parish where the conviction occurred shall be allowed to
10 review the record of the offender since incarceration, including but not limited to any
11 educational or vocational training, rehabilitative program participation, disciplinary
12 conduct, and risk assessment score. The district attorney shall be allowed to present
13 testimony to the committee on parole and submit information relevant to the
14 proceedings, **except as provided in Paragraph (C)(4) of this Section.**

15 * * *

16 (9)(a) To notify the victim, or the spouse or next of kin of a deceased victim,
17 when the offender is scheduled for a parole hearing. The notification shall be in
18 writing and sent no less than thirty days prior to the hearing date. The notice shall
19 advise the victim, or the spouse or next of kin of a deceased victim, of their rights
20 with regard to the hearing. The notice is not required when the victim, or the spouse
21 or next of kin of a deceased victim, advises the committee in writing that such
22 notification is not desired. The victim, or the spouse or next of kin of a deceased
23 victim, shall be allowed to testify at the hearing. The victim, or the spouse or next
24 of kin of a deceased victim, shall be allowed to testify directly, or in rebuttal to
25 testimony or evidence offered by or on behalf of the offender, or both.

26 **(b) To notify the victim, or the spouse or next of kin of a deceased victim**
27 **of those offenders eligible for release pursuant to Paragraph (C)(4) of this**
28 **Section. The notification shall meet all requirements set forth in Subparagraph**
29 **(9)(a) of this Section except that it shall give notice of the offender's**

1 administrative parole eligibility date and be sent no less than forty-five days
2 prior to the offender's administrative parole eligibility date.

3 * * *

4 §574.4. Parole; eligibility

5 A.(1)(a) Unless eligible at an earlier date ~~and except as provided for in~~
6 ~~Subparagraph (b) of this Paragraph and Subsection B of this Section~~, a person;
7 otherwise eligible for parole, ~~convicted of a first felony offense~~ shall be eligible for
8 parole consideration upon serving twenty-five percent of the sentence imposed.
9 The provisions of this Subparagraph shall not apply to any person whose
10 instant offense is a crime of violence as defined in R.S. 14:2(B), a sex offense as
11 defined in R.S. 15:541, or any offense which would constitute a crime of violence
12 as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, regardless
13 of the date of conviction. Notwithstanding any provisions of law to the contrary,
14 the provisions of this Subparagraph shall be applicable to persons convicted of
15 offenses or revoked of probation or parole prior to and on or after, July 1, 2017.
16 ~~thirty-three and one-third percent of the sentence imposed. Upon conviction of a~~
17 ~~second felony offense, such person shall be eligible for parole consideration upon~~
18 ~~servng fifty percent of the sentence imposed. A person convicted of a third or~~
19 ~~subsequent felony offense shall not be eligible for parole.~~

20 (b)(i) ~~Notwithstanding the provisions of Subparagraph (a) of this Paragraph,~~
21 ~~a person, otherwise eligible for parole, convicted of a first felony offense shall be~~
22 ~~eligible for parole consideration upon serving twenty-five percent of the sentence~~
23 ~~imposed. The provisions of this Subparagraph shall not apply to any person who has~~
24 ~~been convicted of a crime of violence as defined in R.S. 14:2(B), has been convicted~~
25 ~~of a sex offense as defined in R.S. 15:541, has been sentenced as a habitual offender~~
26 ~~pursuant to R.S. 15:529.1, or is otherwise ineligible for parole. A person, otherwise~~
27 eligible for parole, whose instant offense is a first or second conviction of a
28 crime of violence as defined in R.S. 14:2(B) or a first or second conviction of a
29 sex offense as defined in R.S. 15:541 shall be eligible for parole consideration

1 upon serving seventy-five percent of the sentence imposed. A person convicted
2 a third or subsequent time of a crime of violence as defined in R.S. 14:2(B) or
3 a third or subsequent time of a sex offense as defined in R.S. 15:541 shall not be
4 eligible for parole.

5 (ii) Notwithstanding the provisions of Subparagraph (b)(i) of this
6 Paragraph, a person, otherwise eligible for parole, convicted of a crime of
7 violence as defined in R.S. 15:541 who does not have a prior felony conviction
8 for a crime of violence as defined in R.S. 14:2(B) or a prior felony conviction for
9 a sex offense as defined in R.S. 15:541 shall be eligible for parole consideration
10 upon serving fifty-five percent of the sentence imposed. The provisions of this
11 Item shall not apply to any person convicted of a sex offense as defined in R.S.
12 15:541.

13 (iii) The provisions of this Subparagraph shall be applicable only to
14 persons convicted of offenses or revoked on probation or parole on or after July
15 1, 2017.

16 ~~(ii) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, a~~
17 ~~person, otherwise eligible for parole, convicted of a second felony offense shall be~~
18 ~~eligible for parole consideration upon serving thirty-three and one-third percent of~~
19 ~~the sentence imposed. The current offense shall not be counted as a second or~~
20 ~~subsequent offense if more than ten years have lapsed between the date of the~~
21 ~~commission of the current offense or offenses and the expiration of the person's~~
22 ~~maximum sentence or sentences of the previous conviction or convictions, or~~
23 ~~between the expiration of his maximum sentence or sentences of each preceding~~
24 ~~conviction and the date of the commission of the following offense or offenses. In~~
25 ~~computing the intervals of time, any period of parole, probation, or incarceration by~~
26 ~~a person in a penal institution, within or without the state shall not be included in the~~
27 ~~computation of any of the ten-year periods between the expiration of the person's~~
28 ~~maximum sentence or sentences and the next succeeding offense or offenses. The~~
29 ~~provisions of this Item shall not apply to any person who has been convicted of a~~

1 crime of violence as defined in R.S. 14:2(B), has been convicted of a sex offense as
2 defined in R.S. 15:541, has been sentenced as a habitual offender pursuant to R.S.
3 15:529.1, or is otherwise ineligible for parole.

4 (iii) ~~Any person eligible for parole pursuant to the provisions of this~~
5 ~~Subparagraph shall not be eligible for parole pursuant to the provisions of~~
6 ~~Subparagraph (a) of this Paragraph.~~

7 (iv) ~~Nothing in this Subparagraph shall prevent a person from reapplying for~~
8 ~~parole as provided by rules adopted in accordance with the Administrative Procedure~~
9 ~~Act.~~

10 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection or any
11 other law to the contrary, unless eligible for parole at an earlier date, a person
12 committed to the Department of Public Safety and Corrections for a term or terms
13 of imprisonment with or without benefit of parole for thirty years or more shall be
14 eligible for parole consideration upon serving at least twenty years of the term or
15 terms of imprisonment in actual custody and upon reaching the age of forty-five.
16 This provision shall not apply to a person serving a life sentence unless the sentence
17 has been commuted to a fixed term of years. The provisions of this Paragraph shall
18 not apply to any person who has been convicted under the provisions of R.S. 14:64.
19 ~~The provisions of this Paragraph shall not apply to any person who has been~~
20 ~~convicted of a crime of violence as defined in R.S. 14:2(B) or a sex offense as~~
21 ~~defined in R.S. 15:541. **Notwithstanding any provisions of law to the contrary,**~~
22 ~~**the provisions of this Paragraph shall apply to persons convicted of offenses**~~
23 ~~**prior to and on or after, July 1, 2017.**~~

24 * * *

25 B.(1) ~~No~~ **Except as provided in Subsection (A)(2) of this Section, no**
26 person shall be eligible for parole consideration who has been convicted of armed
27 robbery and denied parole eligibility under the provisions of R.S. 14:64. Except as
28 provided in Paragraph (2) of this Subsection, and except as provided in Paragraph
29 (A)(5) and Subsections D, ~~and E,~~ **and F** of this Section, no prisoner serving a life

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

* * *

14 C.(1)

* * *

16 (2)(a) ~~In~~ **Except as provided in R.S. 15:574.2(C)(4), in** cases where the
 17 offender has been convicted of, or where adjudication has been deferred or withheld
 18 for the perpetration or attempted perpetration of a violation of a sex offense as
 19 defined in R.S. 15:541 and parole is permitted by law and the offender is otherwise
 20 eligible, the committee shall consider reports, assessments, and clinical information,
 21 as available, including any testing and recommendations by mental health
 22 professionals, as to all of the following:

23 (i) Whether the offender has successfully completed the sex offender
 24 program.

25 (ii) Whether, in the expert's opinion, there is a likelihood that the offender
 26 will or will not repeat the criminal conduct and that the offender will or will not be
 27 a danger to society.

28 (b) ~~The~~ **Except as provided in R.S. 15:574.2(C)(4), the** committee shall
 29 render its decision ordering or denying the release of the prisoner on parole only after

1 considering this clinical evidence where such clinical evidence is available.

2 * * *

3 F. Notwithstanding any provision of law to the contrary, any offender
4 servng a sentence of life imprisonment, except an offender serving a life
5 sentence for a conviction of first degree murder (R.S. 14:30), shall be eligible for
6 parole consideration upon serving at least thirty years of the term or terms of
7 imprisonment in actual custody and upon reaching the age of fifty, if all of the
8 following conditions are met:

9 (1) The offender has obtained a low risk level designation determined by
10 a validated risk assessment instrument approved by the secretary of the
11 Department of Public Safety and Corrections.

12 (2) The offender has not committed any major disciplinary offenses in
13 the twelve consecutive months prior to the parole hearing date. A major
14 disciplinary offense is an offense identified as a Schedule B offense by the
15 Department of Public Safety and Corrections in the Disciplinary Rules and
16 Procedures for Adult Offenders.

17 (3) The offender has completed the mandatory minimum of one hundred
18 hours of prerelease programming in accordance with the provisions of R.S.
19 15:827.1, if such programming is available at the facility where the offender is
20 incarcerated.

21 (4) The offender has completed substance abuse treatment, if applicable,
22 and such treatment is available at the facility where the person is incarcerated.

23 (5) The offender has obtained a GED credential unless the offender has
24 previously obtained a high school diploma or is deemed by a certified teacher
25 as being incapable of obtaining a GED credential due to a learning disability or
26 because such programming is not available. If the offender is deemed incapable
27 of obtaining a GED credential, the offender shall complete at least one of the
28 following: a literacy program, an adult basic education course, or a job skill
29 training program.

1 §574.4.1. Parole consideration and hearings

2 A.(1) The parole hearings shall be conducted in a formal manner in
3 accordance with the rules formulated by the committee and with the provisions of
4 this Part. ~~Before~~ **Except as provided in R.S. 15:574.2(C)(4), before** the parole of
5 any prisoner is ordered, such prisoner shall appear before and be interviewed by the
6 committee, except those incarcerated in parish prisons or parish correctional centers,
7 in which case one committee member may conduct the interview. The committee
8 may order a reconsideration of the case or a rehearing at any time.

9 * * *

10 §574.4.2. Decisions of committee on parole; nature, order, and conditions of parole;
11 rules of conduct; infectious disease testing

12 * * *

13 B. At the time these written conditions are given, the committee shall notify
14 the parolee that:

15 ~~(1) If he is arrested while on parole, the committee has the authority to place~~
16 ~~a detainer against him which will in effect prevent him from making bail pending~~
17 ~~any new charges against him; and~~

18 (2) ~~Should~~ **should** his parole be revoked for any reason, good time earned
19 prior to parole and good time that would have been earned if parole had not been
20 granted will be forfeited, as required by R.S. 15:571.4.

21 * * *

22 §574.4.3. Parole requirements for certain sex offenders

23 A.(1) ~~Before having a parole hearing~~ **Parole shall not be granted** for any
24 offender who has been convicted of a violation of a sex offense as defined in R.S.
25 15:541, when the law permits parole consideration for that offense, and when
26 according to law an offender convicted of one of those offenses is otherwise eligible
27 for parole, **unless** the committee **has given sufficient notice to the victim or the**
28 **victim's parent or guardian pursuant to R.S. 15:574.2(D)(9).** ~~shall give written~~
29 ~~notice of the date and time of the parole hearing at least three days prior to the~~

1 hearing to the victim or the victim's parent or guardian, unless the victim, parent, or
2 guardian has advised the committee on parole in writing that such notification is not
3 desired.

4 * * *

5 §574.6. Parole term; automatic discharge

6 The parole term, when the committee orders a ~~prisoner~~ **an offender** released
7 on parole, shall be for the remainder of the prisoner's sentence, ~~without any~~
8 ~~diminution of sentence for good behavior~~ **with credits for compliance with the**
9 **terms and conditions of parole supervision pursuant to Code of Criminal**
10 **Procedure Article 895.7.** When the parolee has completed his full parole term, he
11 shall be discharged from parole by the Department of Public Safety and Corrections
12 without order by the committee, provided that:

13 (1) No warrant has been issued by the committee for the arrest of the parolee.

14 (2) No detainer has been issued by the parole officer for the detention of the
15 parolee pending revocation proceedings.

16 (3) No indictment or bill of information is pending for any felony the parolee
17 is suspected to have committed while on parole.

18 §574.7. Custody and supervision of parolees; modification or suspension of
19 supervision; violation of conditions of parole; sanctions; alternative
20 conditions; administrative sanctions

21 * * *

22 B.(1) ~~At the time a defendant is released on parole, the committee on parole~~
23 ~~may make a determination as to whether a defendant is eligible for the imposition~~
24 ~~of administrative sanctions as provided for in this Section. If authorized to do so by~~
25 ~~the committee, each~~ **Each** time a parolee violates a condition of parole, a parole
26 officer ~~may~~ **shall be authorized to** use administrative sanctions to address a
27 technical violation committed by a parolee when all of the following occur:

28 (a) The parolee, after receiving written notification of his right to a hearing
29 before a court and right to counsel, provides a written waiver of a parole violation

1 hearing.

2 (b) The parolee admits to the violation or affirmatively chooses not to contest
3 the violation alleged in the parole violation report.

4 (c) The parolee consents to the imposition of administrative sanctions by the
5 Department of Public Safety and Corrections.

6 (2) The department shall promulgate rules to implement the provisions of this
7 Subsection to establish the following:

8 (a)(i) A system of structured, administrative sanctions which shall be
9 imposed for technical violations of parole and which shall take into consideration the
10 following factors:

11 (i)(aa) The severity of the violation behavior.

12 (ii)(bb) The prior violation history.

13 (iii)(cc) The severity of the underlying criminal conviction.

14 (iv)(dd) The criminal history of the parolee.

15 (v)(ee) Any special circumstances, characteristics, or resources of the parolee.

16 (vi)(ff) Protection of the community.

17 (vii)(gg) Deterrence.

18 (viii)(hh) The availability of appropriate local sanctions, including but not
19 limited to jail, treatment, community service work, house arrest, electronic
20 surveillance, restitution centers, work release centers, day reporting centers, or other
21 local sanctions.

22 **(ii) Incarceration shall not be used for the first or second lowest-level**
23 **violations, including but not limited to first positive drug test; association with**
24 **known felons or persons involved in criminal activity; changing residence**
25 **without permission; failure to initially report as required; failure to pay**
26 **restitution up to three months; failure to report as instructed; travel without**
27 **permission; and unemployment and failure to seek employment within ninety**
28 **days.**

29 **(iii) Incarceration shall not be used for first or second violations of**

1 alcohol use or admission, except for defendants convicted of operating a vehicle
2 while intoxicated; convicted of domestic abuse battery committed by one family
3 member, household member, or dating partner against another; or convicted
4 of violation of protective order committed by one family member, household
5 member, or dating partner against another.

6 (b) Procedures to provide a parolee with written notice of the right to a parole
7 violation hearing to determine whether the parolee violated the conditions of parole
8 alleged in the violation report and the right to be represented by counsel at state
9 expense at that hearing if financially eligible.

10 (c) Procedures for a parolee to provide written waiver of the right to a parole
11 violation hearing, to admit to the violation or affirmatively choose not to contest the
12 violation alleged in the parole violation report, and to consent to the imposition of
13 administrative sanctions by the department.

14 (d) The level and type of sanctions that may be imposed by parole officers
15 and other supervisory personnel.

16 (e) The level and type of violation behavior that warrants a recommendation
17 to the committee that parole be revoked.

18 (f) Procedures notifying the parolee and the committee on parole of a
19 violation admitted by the parolee and the administrative sanctions imposed.

20 (g) Such other policies and procedures as are necessary to implement the
21 provisions of this Subsection and to provide adequate parole supervision.

22 (h) A system of structured administrative rewards for compliance with
23 conditions and positive behavior that exceeds the conditions of parole.

24 (3) If the administrative sanction imposed pursuant to the provisions of this
25 Subsection is jail confinement, the confinement shall not exceed ten days per
26 violation and shall not exceed a total of sixty days per year.

27 (4) For purposes of this Subsection, "technical violation" means any violation
28 of a condition of parole as defined in R.S. 15:574.9(G)(2). except the following:

29 (a) A new felony conviction.

1 **(b) A conviction for an intentional misdemeanor directly affecting the**
2 **person.**

3 **(c) An allegation of a subsequent criminal act that if proven would be a**
4 **crime of violence as defined in R.S. 14:2(B).**

5 **(d) An allegation of a subsequent criminal act that if proven would be a**
6 **sex offense as defined in R.S. 15:541.**

7 **(e) An allegation of domestic abuse battery pursuant to R.S. 14:35.3**
8 **committed by one family member, household member, or dating partner**
9 **against another.**

10 **(f) An allegation of violation of protective order pursuant to R.S. 14:79**
11 **committed by one family member, household member, or dating partner**
12 **against another.**

13 * * *

14 §574.9. Revocation of parole for violation of condition; committee panels; return to
15 custody hearing; duration of reimprisonment and reparole after
16 revocation; credit for time served; revocation for a technical violation

17 * * *

18 **D. When a detainer is issued by the parole officer for the commission of**
19 **a new crime, it is enforceable until bond is set by the sentencing judge. When**
20 **the bond is set, the detainer shall expire and the parolee may be released upon**
21 **posting of the bond.**

22 ~~E~~. Parole revocation shall require two votes of a three-member panel of
23 parole committee members or, if the number of members present exceeds a three-
24 member panel, a majority vote of those members present and voting, and the order
25 of revocation shall be reduced to writing and preserved.

26 ~~E~~~~F~~. When the parole of a parolee has been revoked by the committee for
27 violation of the conditions of parole, the parolee shall be returned to the physical
28 custody of the Department of Public Safety and Corrections, corrections services,
29 and serve the remainder of his sentence as of the date of his release on parole, and

1 any credit for time served for good behavior while on parole. The parolee shall be
2 given credit for time served prior to the revocation hearing for time served in actual
3 custody while being held for a parole violation in a local detention facility, state
4 institution, or out-of-state institution pursuant to Code of Criminal Procedure Article
5 880.

6 FG. Any such prisoner whose parole has been revoked may be considered by
7 the committee for reparole in accordance with the provisions of this Part.

8 GH.(1)(a)(i) Except as provided in Subparagraph (b) of this Paragraph, any
9 offender who has been released on parole and whose parole supervision is being
10 revoked pursuant to the provisions of this Subsection for a technical violation of the
11 conditions of parole as determined by the committee on parole, shall be required to
12 serve the following sentences:

13 (aa) For the first technical violation, ~~the offender shall serve~~ not more than
14 ~~ninety~~ **fifteen** days.

15 (bb) For a second technical violation, ~~the offender shall serve~~ not more than
16 ~~one hundred twenty~~ **thirty** days.

17 (cc) For a third or subsequent technical violation, ~~the offender shall serve~~ not
18 more than ~~one hundred eighty~~ **forty-five** days.

19 (ii) The sentences imposed pursuant to Item (i) of this Subparagraph shall be
20 served without diminution of sentence ~~or credit for time served prior to the~~
21 ~~revocation for a technical violation.~~ The term of the revocation for the technical
22 violation shall begin on the date the committee on parole orders the revocation.
23 Upon completion of the imposed technical revocation sentence, the offender shall
24 return to active parole supervision for the remainder of the original term of
25 supervision.

26 **(iii) Notwithstanding any other provision of law to the contrary, if the**
27 **offender completes ninety days of committee-recommended substance abuse**
28 **treatment, he shall receive ninety days of credit toward his term of parole.**

29 **(iv) The offender shall be given credit toward service of his sentence for**

1 time spent in actual custody prior to the revocation hearing while being held for
2 a technical violation in a local detention facility, state institution, or out-of-state
3 institution.

4 (b) The provisions of Subparagraph (a) of this Paragraph shall not apply to
5 the following offenders:

6 (i) Any offender released on parole for the conviction of a crime of violence
7 as defined in R.S. 14:2(B):

8 (ii) Any offender released on parole for the conviction of a sex offense as
9 defined in R.S. 15:541:

10 (iii) Any offender released on parole who is subject to the sex offender
11 registration and notification requirements of R.S. 15:541 et seq.

12 (2) A "technical violation", as used in this Subsection, means any violation
13 except **a new felony conviction**, it shall not include any of the following:

14 (a) Being arrested, charged, or convicted of any of the following:

15 (i) A felony:

16 (ii) Repealed by Acts 2010, No. 510, §1, eff. Aug. 15, 2010:

17 (iii) Any intentional misdemeanor directly affecting the person:

18 (iv) At the discretion of the committee on parole, any attempt to commit any
19 intentional misdemeanor directly affecting the person.

20 (v) At the discretion of the committee on parole, any attempt to commit any
21 other misdemeanor:

22 (b) Being in possession of a firearm or other prohibited weapon:

23 (c) Failing to appear at any court hearing:

24 (d) Absconding from the jurisdiction of the committee on parole:

25 * * *

26 §574.20. Medical parole program; eligibility; revocation

27 A.(1) Notwithstanding the provisions of this Part or any other law to the
28 contrary, any person sentenced to the custody of the Department of Public Safety and
29 Corrections may, upon referral by the department, be considered for medical parole

1 by the committee on parole. Medical parole consideration shall be in addition to any
 2 other parole for which an inmate may be eligible, but shall not be available to any
 3 inmate who is awaiting execution Notwithstanding the provisions of this Part or
 4 any other law to the contrary, any offender sentenced to the custody of the
 5 Department of Public Safety and Corrections may, upon referral by the
 6 department, be considered for medical parole or medical furlough by the
 7 committee on parole. Consideration for parole or furlough under this Section
 8 shall be in addition to any other parole for which an offender may be eligible.

9 (2) Medical parole shall not be available to any inmate serving time for the
 10 violation of R.S. 14:30, first degree murder; or R.S. 14:30.1, second degree murder.

11 B. Medical Parole

12 (1) The committee on parole shall establish the medical parole program to be
 13 administered by the Department of Public Safety and Corrections. An inmate
 14 offender eligible for consideration for release under the program shall be any person
 15 offender who, because of an existing medical or physical condition, is determined
 16 by the department to be within one of the following designations:

17 (1)(a) "Permanently disabled inmate offender" means any person offender
 18 who is unable to engage in any substantial gainful activity by reason of any
 19 medically determinable physical impairment which can be expected to result in death
 20 or which is or can be expected to be permanently irreversible.

21 (2)(b) "Terminally ill inmate offender" means any inmate offender who,
 22 because of an existing medical condition, is irreversibly terminally ill. For the
 23 purposes of this Section, "terminally ill" is defined as having a life expectancy of less
 24 than one year due to an underlying medical condition.

25 (2) Medical parole shall not be available to any offender serving a
 26 sentence for a conviction of first degree murder (R.S. 14:30) or second degree
 27 murder (R.S. 14:30.1) or awaiting execution.

28 C. Medical Furlough

29 (1) The committee on parole shall establish the medical furlough

1 program to be administered by the department. Medical furlough shall not be
 2 available to any offender who is awaiting execution. An offender eligible for
 3 consideration for release under the program shall be any offender who is
 4 ineligible for release on medical parole pursuant to Subsection B of this Section
 5 and, because of an existing medical or physical condition, is determined by the
 6 department to be within one of the following designations:

7 (a) "Limited mobility offender" means any offender who is unable to
 8 perform activities of daily living without help or is totally confined to a bed or
 9 chair, including but not limited to prolonged coma and medical ventilation.

10 (b) "Terminally ill offender" means any offender who, because of an
 11 existing medical condition, is irreversibly terminally ill. For the purposes of this
 12 Section, "terminally ill" is defined as having a life expectancy of less than one
 13 year due to an underlying medical condition.

14 (2) Offenders granted furlough under this Subsection shall be released
 15 upon securing the following placements for the duration of their furlough:

16 (a) For limited mobility offenders, any acute care hospital, nursing home,
 17 or other healthcare facility.

18 (b) For terminally ill offenders, any health care facility including but not
 19 limited to an acute care hospital, nursing home, or any other appropriate setting
 20 which is able to meet the needs of the terminally ill offender.

21 D. No inmate offender shall be recommended for ~~medical parole~~ or
 22 furlough pursuant to this Section by the department until full consideration has
 23 been given to the ~~inmate's~~ offender's crime and criminal history, length of time
 24 served in custody, institutional conduct, an indication that the ~~inmate~~ offender
 25 represents a low risk to himself or society, and a medical assessment of the ~~inmate's~~
 26 offender's condition. In the assessment of risk, emphasis shall be given to the
 27 ~~inmate's~~ offender's medical condition and how this relates to his overall risk to
 28 society.

29 ~~D~~E. The authority to grant ~~medical parole~~ or furlough pursuant to this

1 **Section** shall rest solely with the committee on parole, and the committee shall
2 establish additional conditions of the parole **or furlough** in accordance with the
3 provisions of this Subpart. The Department of Public Safety and Corrections shall
4 identify those ~~inmates~~ **offenders** who may be eligible for medical parole **or medical**
5 **furlough** based upon available medical information. In considering an ~~inmate~~
6 **offender** for medical parole **or medical furlough**, the committee may require that
7 additional medical evidence be produced or that additional medical examinations be
8 conducted. The committee on parole shall determine the risk to public safety and
9 shall grant medical parole **or medical furlough** only after determining that the
10 ~~inmate~~ **offender** does not pose a threat to public safety.

11 **EF.** The parole term of an ~~inmate~~ **offender** released on medical parole **or**
12 **medical furlough** shall be for the remainder of the ~~inmate's~~ **offender's** sentence,
13 without diminution of sentence for good behavior. Supervision of the ~~parolee~~
14 **offender** shall consist of periodic medical evaluations at intervals to be determined
15 by the committee at the time of release.

16 **FG.** If it is discovered through the supervision of the medical parolee **or**
17 **furloughee** that his condition has improved such that he would not then be eligible
18 for medical parole **or medical furlough** under the provisions of this Subpart, the
19 committee may order that the ~~person~~ **offender** be returned to the custody of the
20 Department of Public Safety and Corrections to await a hearing to determine whether
21 his parole **or furlough** shall be revoked. Any ~~person~~ **offender** whose medical parole
22 **or medical furlough** is revoked due to an improvement in his condition shall resume
23 serving the balance of his sentence with credit given for the duration of the medical
24 parole **or furlough**. If the ~~person's~~ **offender's** medical parole **or medical furlough**
25 is revoked due to an improvement in his condition, and he would be otherwise
26 eligible for parole, he may then be considered for parole under the provisions of R.S.
27 15:574.4. Medical parole **and medical furlough** may also be revoked for violation
28 of any condition of the parole as established by the committee on parole.

29 **GH.** The committee on parole shall promulgate such rules as are necessary

1 to effectuate this Subpart, including rules relative to the conduct of medical parole
2 **and medical furlough** hearings, and the conditions of medical parole **and medical**
3 **furlough** release.

4 * * *

5 §827. Duties of Department of Public Safety and Corrections

6 A. In addition to other duties imposed upon the department it shall be the
7 duty of the department to:

8 * * *

9 **(7) Establish a procedure that provides for each offender who is required**
10 **to serve an active term of imprisonment of one hundred eighty days or more,**
11 **a written case plan that is based on the results of an assessment of the offender's**
12 **risk and needs and includes participation in programming that addresses the**
13 **needs identified in that assessment. For offenders eligible for administrative**
14 **parole pursuant to R.S. 15:574.2(C)(4), the department shall notify the**
15 **committee in writing of an offender's compliance or noncompliance with the**
16 **case plan not less than sixty days before an offender's administrative parole**
17 **release date. The provisions of this Paragraph shall be implemented only to the**
18 **extent that funds are appropriated for this purpose and to the extent that it is**
19 **consistent with the available resources.**

20 * * *

21 §828. Classification and treatment programs; qualified sex offender programs;
22 reports; earned credits

23 * * *

24 B. The secretary shall adopt rules and regulations for local jail facilities and
25 state correctional institutions to encourage voluntary participation by ~~inmates~~
26 **offenders** in certified treatment and rehabilitation programs, including but not
27 limited to basic education, job skills training, values development and faith-based
28 initiatives, therapeutic programs, and treatment programs. When funds are provided,
29 such educational programs shall be available at each penal or correctional institution

1 under the jurisdiction of the department. The rules and regulations may include
 2 provisions for furloughs or the awarding of earned credits toward the reduction of
 3 the projected good time parole supervision date. Offenders may be awarded up to
 4 ~~ninety days toward the reduction of the projected good time parole supervision date~~
 5 ~~for satisfactory participation in each approved program pursuant to the provisions of~~
 6 ~~this Subsection, but no offender shall receive more than~~ three hundred sixty days
 7 total earned credits toward the reduction of the projected good time parole
 8 supervision date for program participation.

9 C. Notwithstanding any other provision of law to the contrary, any offender
 10 in the custody of the Department of Public Safety and Corrections who has been
 11 sentenced as an habitual offender pursuant to the provisions of R.S. 15:529.1 may
 12 earn additional good time for participation in certified treatment and rehabilitation
 13 programs as provided for in Subsection B of this Section, unless the offender was
 14 ~~convicted of a sex offense as defined by R.S. 15:541 or a crime of violence as~~
 15 ~~defined by R.S. 14:2(B).~~ **offender's instant offense is one of the following:**

16 **(1) A sex offense as defined in R.S. 15:541.**

17 **(2) A crime of violence as defined in R.S. 14:2(B) and the offender has**
 18 **two or more prior convictions of a crime of violence as defined in R.S. 14:2(B)**
 19 **or a sex offense as defined in R.S. 15:541.**

20 **D. Offenders who are otherwise eligible under this Section who are**
 21 **participating in the workforce development work release program pursuant to**
 22 **R.S. 15:1199.9, shall be eligible to earn an additional one hundred eighty days**
 23 **of credit towards the reduction of the projected good time parole supervision**
 24 **date.**

25 Section 4. Code of Criminal Procedure Art. 893(A) is hereby amended and reenacted
 26 to read as follows:

27 Art. 893. Suspension and deferral of sentence and probation in felony cases

28 A. When it appears that the best interest of the public and of the defendant
 29 will be served, the court, after a first, ~~or second,~~ **or third** conviction of a noncapital

1 felony, may suspend, in whole or in part, the imposition or execution of either or
 2 both sentences, where suspension is allowed under the law, and in either or both
 3 cases place the defendant on probation under the supervision of the division of
 4 probation and parole. The court shall not suspend the sentence of a conviction for an
 5 offense that is designated in the court minutes as a crime of violence pursuant to
 6 Article 890.3, or of a second conviction if the second conviction is for a violation of
 7 R.S. 14:73.5, 81.1, or 81.2. The period of probation shall be specified and shall not
 8 be ~~less than one year nor~~ more than ~~five~~ **three** years. The suspended sentence shall
 9 be regarded as a sentence for the purpose of granting or denying a new trial or
 10 appeal. Supervised release as provided for by Chapter 3-E of Title 15 of the
 11 Louisiana Revised Statutes of 1950 shall not be considered probation and shall not
 12 be limited by the ~~five~~ **three**-year period for probation provided for by the provisions
 13 of this Paragraph.

14 * * *

15 Section 5. The provisions of Sections 1, 2, 3, 5, and 6 of this Act shall become
 16 effective on July 1, 2017.

17 Section 6. In the event that the bill which originates as Senate Bill ___ of the 2017
 18 Regular Session is not enacted into law, Section 4 of this Act shall become effective on July
 19 1, 2017, Section 2 of this Act shall be void and any amendments in Section 1 of this Act to
 20 Code of Criminal Procedure Article 903.1(B), and in Section 3 of this Act to R.S.
 21 15:571.3(B)(1)(a) shall be void.

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

DIGEST

SB 139 Original 2017 Regular Session Martiny

Present law authorizes the suspension of a sentence for offenders convicted a first or second time of noncapital felonies when the conviction is not for a crime of violence or a second conviction of computer fraud, pornography involving juveniles, or molestation of a juvenile or a person with a physical or mental disability.

Proposed law retains present law and adds eligibility for offenders convicted a third time of a noncapital felony and offenders convicted a first or second time of a Class D or E felony that was not committed against a family member, household member, or dating partner for a suspension of sentence.

Present law provides that when an offender's sentence is suspended, he shall be placed on probation for not less than one year and not more than five years.

Proposed law decreases the time probation period for a suspended sentence to not more than three years and removes mandatory minimum.

Proposed law retains present law and allows for suspension of a sentence for a fourth conviction of operating a vehicle while intoxicated if the offender was not offered such alternatives prior to his fourth conviction, the district attorney consents, and the court orders the offender to do any of the following:

- (1) Enter and complete a program provided by the drug division court of the district court.
- (2) Enter and complete an established driving while intoxicated court or sobriety court program.
- (3) Reside for at least one year in a facility which conforms to the Judicial Agency Referral Residential Facility Regulatory Act.
- (4) Enter and complete the Swift and Certain Probation Pilot Program.

Present law allows the period of probation for any offender to be extended to no more than eight years if the court deems it necessary to ensure completion of a drug court program, a sobriety court program, or the Swift and Certain Probation Pilot Program.

Proposed law removes the ability of the court to extend the duration of the probation period of cases assigned to such programs if it is the offender's first or second conviction.

Proposed law allows the probation period for an offender ordered to complete a drug court program, a sobriety court program, or the Swift and Certain Probation Pilot Program to be extended to no more than eight years only if it is the offender's third conviction or fourth conviction of operating a vehicle while intoxicated.

Proposed law provides that every offender on felony probation shall earn discharge credits for compliance with the terms of their probation at a rate of 30 days per full calendar month of compliance beginning after the first full month of compliance.

Proposed law provides that if the chief probation and parole officer has reasonable cause to believe an offender on felony probation has not been compliant he must notify the sentencing judge within five business days of learning of the incident of noncompliance and, unless a judge rules otherwise, 30 days of credits will be rescinded from the offender.

Proposed law provides that credits may only be rescinded from a defendant for noncompliance.

Proposed law provides that DPSC shall develop policies and procedures for the implementation of discharge credits for probation offenders and shall collect data on the discharge credits including the names of offenders that earned credits, how many credits are applied to each offender, and reductions to supervision periods at the time of discharge.

Proposed law requires DPSC to notify each offender every six months from the date the offender is placed on probation of the offender's current discharge date and the offender's overall sentence.

Proposed law requires DPSC to notify the court no less than 60 days prior to the expected discharge date and allows DPSC to request that the court terminate a sentence prior to the discharge date.

Proposed law provides that the offender's supervising agency shall order the offender's discharge when the offender's total sentence is satisfied through a combination of time served and earned discharge credits.

Proposed law defines "calendar month of compliance" as any calendar month in which no violation report submitted by a offender's probation officer, no administrative sanctions are issued by an offender's probation officer, and the offender does not abscond from supervision.

Proposed law provides that an offender can abscond from supervision by failing to report within five business days after release from custody, failing to report for a scheduled meeting with a probation officer, failing to make contact with a probation officer within 30 days of a missed meeting, or serving a term of imprisonment for a violation of a condition of probation.

Proposed law provides that every offender on parole shall earn discharge credits for compliance with the terms of their parole at a rate of 30 days per full calendar month of compliance beginning after the first full month of compliance.

Proposed law provides that if the chief probation and parole officer has reasonable cause to believe an offender on parole has not been compliant, he must notify the sentencing judge within five business days of learning of the incident of noncompliance and, unless a judge rules otherwise, 30 days of credits will be rescinded from the offender.

Proposed law provides that credits may only be rescinded from an offender for noncompliance.

Proposed law provides that DPSC shall develop policies and procedures for the implementation of discharge credits for parole offenders and shall collect data on the discharge credits including the names of offenders that earned credits, how many credits are applied to each offender, and reductions to supervision periods at the time of discharge.

Proposed law requires DPSC to notify each offender within six months from the date the offender is released on parole, of the offender's current discharge date, and the offender's overall sentence.

Proposed law requires DPSC to notify the court no less than 60 days prior to the expected discharge date and allows DPSC to request that the court terminate a sentence prior to the discharge date.

Proposed law provides that DPSC shall discharge the offender, without order by the committee on parole, when the offender's total sentence is satisfied through a combination of time served and earned discharge credits.

Proposed law defines "calendar month of compliance" as any calendar month in which no violation report submitted by an offender's parole officer, no administrative sanctions are issued by an offender's parole officer, and the offender does not abscond from supervision.

Proposed law provides that an offender can abscond from supervision by failing to report within five business days after release from custody, failing to report for a scheduled meeting with a parole officer, failing to make contact with a parole officer within 30 days of a missed meeting, or serving a term of imprisonment for a violation of a condition of parole.

Present law provides that at the time of sentencing, the court may make a determination as to whether an offender is eligible for the imposition of administrative sanctions.

Proposed law deletes present law and provides that, without authorization by the sentencing

court, if an offender violates a condition of probation a probation agency is authorized to use administrative sanctions for technical violations if certain conditions exist.

Present law provides that DPSC shall promulgate rules to implement the provisions of administrative sanctions for technical violations.

Proposed law retains present law and adds that DPSC shall promulgate rules to implement the provisions of administrative sanctions with the following additional considerations:

- (1) Incarceration not to be used for first or second lowest-level violations.
- (2) Incarceration not to be used for first or second violations of alcohol use or admission, except for offenders convicted of operating a vehicle while intoxicated or certain convictions of domestic abuse battery or violation of a protective order.

Proposed law provides that DPSC shall develop a system of structured administrative rewards for compliance with conditions and positive behavior that exceeds conditions of probation.

Present law defines "technical violation", as it pertains to administrative sanctions for technical violations of probation, as any violation of a condition of probation, except for an allegation of a subsequent criminal act unless the allegation is a violation of possession of marijuana or tetrahydrocannabinol or chemical derivatives thereof.

Proposed law defines "technical violation", as it pertains to administrative sanctions for technical violations of probation, as any violation of a condition of probation, except:

- (1) A new felony conviction.
- (2) A conviction for an intentional misdemeanor directly affecting the person.
- (3) An allegation of a subsequent criminal act that if proven would be a crime of violence.
- (4) An allegation of a subsequent criminal act that if proven would be a sex offense.
- (5) An allegation of domestic abuse battery that if proven would be a violation committed by one family member, household member, or dating partner against another.
- (6) An allegation of violation of a protective order that if proven would be a violation committed by one family member, household member, or dating partner against another.

Present law provides that after an arrest for violation of probation, the court shall conduct a hearing within 30 days to determine if an offender violated or was about to violate his probation and may impose sanctions.

Present law provides that the court may revoke an offender's probation. In the event of revocation, the offender shall serve the sentence suspended, with or without credit for the time served on probation at the discretion of the court.

Proposed law provides that in the event of revocation, the offender shall serve the sentence suspended subject to credit for time served on probation or in a substance abuse program.

Present law provides that an offender who has been placed on probation for a conviction other than a crime of violence or sex offense and who has had his probation revoked for his first technical violation shall be required to serve a sentence of not more than 90 days

without diminution of sentence.

Proposed law deletes present law and decreases the sentences that offenders who have their probation revoked for a technical violation shall serve, without diminution of sentence, to the following terms:

- (1) For the first technical violation, not more than 15 days.
- (2) For the second technical violation, not more than 30 days.
- (3) For the third technical violation, not more than 45 days.

Present law provides that, only for the first revocation for a technical violation, the offender shall be given credit for time served prior to the revocation hearing for time served in actual custody while being held for a technical violation.

Present law provides that the term of the revocation shall begin on the date the court orders the revocation and upon completion of the imposed sentence for the technical revocation, the offender shall return to probation for a period equal to the remainder of the original period of probation, subject to any additional conditions imposed by the court.

Proposed law removes the applicability of present law only to an offender's first revocation for a technical violation and otherwise retains present law.

Proposed law provides that if an offender completes 90 days of court-recommended substance abuse treatment, he will receive 90 days credit toward his term of probation.

Present law defines "technical violation", as it pertains to a defendant who has been placed on probation for any offense other than a crime of violence or sex offense and who has had his probation revoked for his first technical violation, as any violation except the following:

- (1) Being arrested, charged, or convicted of any of the following:
 - (a) A felony.
 - (b) A violation of any provision of Title 40 of the Louisiana Revised Statutes of 1950, except for misdemeanor possession of marijuana or tetrahydrocannabinol, or chemical derivatives thereof which shall be considered a "technical violation".
 - (c) Any intentional misdemeanor directly affecting the person.
 - (d) At the discretion of the court, any attempt to commit any intentional misdemeanor directly affecting the person.
 - (e) At the discretion of the court, any attempt to commit any other misdemeanor.
- (2) Being in possession of a firearm or other prohibited weapon.
- (3) Failing to appear at any court hearing.
- (4) Absconding from the jurisdiction of the court.
- (5) Failing to satisfactorily complete a drug court program if ordered to do so as a special condition of probation.
- (6) At the discretion of the court, failing to report to the probation officer for more than 120 consecutive days.

Proposed law defines "technical violation", as it pertains to a defendant who has been placed on probation for any offense other than a crime of violence or sex offense and who has had his probation revoked for his first technical violation, as any violation except a felony conviction.

Present law allows the court to extend the period of probation as a sanction for violation of probation.

Proposed law deletes present law.

Present law provides that in order to be eligible for the substance abuse probation program within DPSC, an offender cannot be convicted of a crime of violence or sex offense, cannot have participated in or declined to participate in a drug division probation program, and must be charged with felony possession of a controlled dangerous substance, possession with intent to distribute a controlled dangerous substance where the offense involves less than 28 grams, possession with intent to distribute marijuana or synthetic cannabinoids where the offense involves less than one pound.

Proposed law provides that to be eligible for the substance abuse program within DPSC an offender must be charged with a violation of a statute relating to the use and possession of or possession with intent to distribute any narcotic drugs, coco leaves, marijuana, stimulants, depressants, or hallucinogenic drugs or where there is a significant relationship between the use of alcohol or drugs and the crime before the court.

Proposed law provides that an offender who has been convicted of a crime of violence except a Class D or E felony, a sex offense, or an offender who has participated or declined to participate in a drug division probation program shall be ineligible to participate in the substance abuse probation program within DPSC.

Present law provides that each district court may designate as a drug division one or more divisions to which alcohol or drug related offenses are assigned and may establish a probation program.

Present law provides that in order to be eligible for the drug division probation program, an offender must satisfy certain criteria, including that the crime before the court cannot be a crime of violence or an offense of domestic abuse battery which is punishable at hard labor and that no other criminal proceedings alleging commission of a crime of violence are pending against the offender.

Proposed law retains present law and adds that offenders may be eligible for the drug division probation program if the crime before the court is a Class D or E felony or if there is a criminal proceeding alleging the commission of a Class D or E felony pending against the offender.

Present law provides that every offender in a parish prison convicted of an offense and sentenced to imprisonment without hard labor, except those convicted a second time of a crime of violence, may earn a diminution of sentence to be known as "good time". Good time shall be earned at the rate of three days for every 17 days in actual custody.

Proposed law retains present law.

Present law provides that every offender in the custody of DPSC who has been convicted of a felony, except those 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 diminution of sentence at the rate of 1.5 days for every one day in actual custody.

Proposed law retains present law and changes the rates at which offenders convicted of a felony, except those convicted a second time of a crime of violence, may earn good time

diminution of sentence to the following:

- (1) For offenders convicted of a Class D or E felony, 13 days for every seven days served.
- (2) For offenders convicted of a Class A, B, or C felony, 1.5 days for every one day in actual custody served.

Present law provides that only offenders convicted on or after 1/1/1992 who are not serving a sentence for a sex offense, crime of violence, or any offense which would constitute a sex offense or crime of violence are eligible to receive good time diminution of sentence.

Proposed law retains present law and provides that offenders convicted of offenses or revoked on probation or parole on or after 1/1/1992 who are not serving a sentence for a sex offense, crime of violence, or any offense which would constitute a sex offense or crime of violence are eligible to receive good time diminution of sentence.

Present law provides that an offender convicted a first time of a crime of violence shall earn good time at a rate of three days for every 17 served in actual custody.

Proposed law provides that an offender convicted of a crime of violence without a prior conviction of a crime of violence or a prior conviction of a sex offense shall earn good time at a rate of seven days for every 13 days in actual custody. Proposed law further provides that this provision shall only apply to offenders convicted of offenses or revoked on probation or parole on or after 7/1/2017. Proposed law further provides that this provision shall not apply to an offender if his instant conviction is for a crime of violence that is classified as both a crime of violence and a sex offense.

Present law provides that good time shall not be allowed an offender if the instant offense is a second offense crime of violence.

Proposed law deletes present law and allows good time for an offender if the instant offense is a crime of violence unless the offender has two or more prior convictions for a crime of violence or a sex offense.

Proposed law provides that good time shall not be allowed an offender if the instant offense is a sex offense.

Present law provides that there shall be a committee on parole which shall enforce the rules regulations, and orders of parole.

Present law requires the parole committee to meet in a minimum of three person panels and requires a unanimous vote for parole to be granted. Present law provides that the committee may grant parole with two votes of a three member panel, or a majority vote if the number exceeds a three member panel, if certain conditions are met.

Proposed law retains present law.

Proposed law creates administrative parole for all offenders who are eligible for parole, except those sentenced under the Habitual Offender Law.

Proposed law provides that an offender shall be released on administrative parole, without a hearing before the committee, if all the following conditions are met:

- (1) The offender has completed a case plan.
- (2) A victim of the offender has been notified and has not requested that the committee conduct a hearing.

- (3) The offender has not committed any major disciplinary offenses in the 12 consecutive months prior to the administrative parole eligibility date. A major disciplinary offense is an offense identified as a Schedule B offense by the DPSC in the Disciplinary Rules and Procedures for Adult Offenders.
- (4) The offender has agreed to the conditions of supervision.
- (5) For any offender convicted of a sex offense the committee and the offender have completed the requirements of parole for sex offenders.

Proposed law provides that if the offender has met all the conditions for administrative parole except the completion of a case plan, he shall not be prohibited from release on administrative parole if the case plan was not created for him or the case plan is incomplete through no fault of the offender.

Present law provides that the committee shall notify, in writing, the district attorney of the parish where the conviction occurred at least 30 days prior to a hearing.

Proposed law retains present law and adds that for offenders eligible for release on administrative parole the committee shall notify, in writing, the district attorney of the parish where the conviction occurred at least 45 days prior to the offender's administrative parole eligibility date.

Present law provides that the committee shall notify, in writing, the victim or spouse or next of kin of a deceased victim no less than 30 days prior to an offender's scheduled hearing date and advise the victim of their rights with regard to the hearing.

Proposed law retains present law and adds that for offenders eligible for release on administrative parole the committee shall notify, in writing, the victim or spouse or next of kin of a deceased victim no less than 45 days prior to the offender's administrative parole eligibility date.

Present law provides that an offender convicted of a first felony offense shall be eligible for parole upon serving 33 1/3% of the sentence imposed, an offender convicted of a second felony offense shall be eligible upon serving 50% of the sentence imposed, and an offender convicted of a third or subsequent felony offense shall not be eligible for parole.

Present law further provides that an offender convicted of a first felony offense shall be eligible for parole upon serving 25% of the sentence imposed if the conviction is not for a crime of violence, a sex offense, or the offender was sentenced as a habitual offender.

Proposed law deletes present law and provides that an offender shall be eligible for parole upon serving 25% of the sentence imposed if the instant conviction is not for a crime of violence, sex offense, or any offense which would constitute a crime of violence or sex offense, regardless of the date of conviction. Proposed law further provides that applicability of these provisions shall be retroactive and prospective.

Proposed law provides that an offender whose instant offense is a first or second conviction of a crime of violence or a first or second conviction of a sex offense shall be eligible for parole upon serving 75% of the sentence imposed. Proposed law further provides that this shall apply to offenders convicted or revoked of probation or parole on or after July 1, 2017.

Proposed law provides that an offender convicted a third or subsequent time of a crime of violence or third or subsequent time of a sex offense shall not be eligible for parole. Proposed law further provides that this shall apply to offenders convicted or revoked of probation or parole on or after July 1, 2017.

Proposed law provides that an offender convicted of a crime of violence who does not have

a prior felony conviction for a crime of violence or sex offense shall be eligible for parole consideration upon serving 55% of the sentence imposed. Proposed law further provides that this shall apply to offenders convicted or revoked of probation or parole on or after July 1, 2017.

Present law provides that an offender sentenced for a term or terms with or without benefit of parole for 30 years or more shall be eligible for parole upon serving at least 20 years of the term in actual custody and upon reaching the age of 45 except when:

- (1) The offender is serving a life sentence that has not been commuted to a fixed term of years.
- (2) The offender has been convicted of armed robbery.
- (3) The offender has been convicted of a crime of violence.
- (4) The offender has been convicted of a sex offense.

Proposed law provides that an offender sentenced for a term or terms with or without benefit of parole for 30 years or more shall be eligible for parole upon serving at least 20 years of the term in actual custody and upon reaching the age of 45 except when:

- (1) The offender is serving a life sentence that has not been commuted to a fixed term of years.
- (2) The offender has been convicted of armed robbery.

Proposed law further provides that applicability of these provisions shall be retroactive and prospective.

Present law provides that, except in certain instances, an offender serving a life sentence shall not be eligible for parole until his life sentence has been commuted to a fixed term of years.

Proposed law provides that an offender serving a life sentence, except an offender serving a life sentence for a conviction of first degree murder, shall be eligible for parole upon serving at least 30 years of the term and upon reaching age 50 if all of the following conditions are met:

- (1) The offender has obtained a low risk level designation determined by a validated risk assessment instrument approved by the secretary of the DPSC.
- (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 if such programming is available at the facility where the offender is incarcerated.
- (4) The offender has completed substance abuse treatment, if applicable, and such treatment is available at the facility where the person is incarcerated.
- (5) The offender has obtained a GED credential unless the offender has previously obtained a high school diploma or is deemed by a certified teacher as being incapable of obtaining a GED credential due to a learning disability or because such programming is not available.

Proposed law decreases the time an offender convicted of a crime of violence must serve

before being eligible for parole from at least 75% to at least 55% of the sentence imposed.

Present law provides that before the parole of any offender is ordered, the offender shall appear before and be interviewed by the committee.

Proposed law provides that offenders eligible for administrative parole are not required to appear before and be interviewed by the committee prior to release on administrative parole.

Present law provides that the committee on parole may make rules for the conduct of offenders granted parole and at the time the conditions of parole are given to the offender, the committee shall also notify the offender of the following:

- (1) If the offender is arrested while on parole, the committee has the authority to place a detainer against him which will prevent him from making bail pending any new charges.
- (2) Should parole be revoked for any reason, good time earned prior to parole and good time that would have been earned if parole had not been granted will be forfeited.

Proposed law removes the ability of the committee to place a detainer against a defendant for an arrest while on parole and otherwise retains present law.

Present law provides that the committee, before having a parole hearing for an offender convicted of a sex offense, shall give written notice to the victim or victim's parent or guardian of the date and time of the parole hearing at least three days prior to the hearing.

Proposed law provides that parole shall not be granted for any offender convicted of a sex offense unless the committee has given sufficient notice to the victim or victim's parent or guardian.

Present law provides that the parole term, when the committee orders an offender released on parole, shall be for the remainder of offender's sentence without diminution of sentence for good behavior.

Proposed law provides that the parole term, when the committee orders an offender released on parole, shall be for the remainder of the offender's sentence with earned discharge credits for compliance.

Present law provides that when an offender is released on parole, the committee may make a determination as to whether an offender is eligible for the imposition of administrative sanctions to be used to address technical violations.

Proposed law provides that each time an offender violates a condition of parole, a parole officer is authorized to use administrative sanctions without a prior determination by the committee, if certain conditions exist.

Present law provides that DPSC shall promulgate rules to implement a system of structured, administrative sanctions for technical violations of parole that take into consideration the following:

- (1) The severity of the violation behavior.
- (2) The prior violation history.
- (3) The severity of the underlying criminal conviction.
- (4) The criminal history of the parolee.

- (5) Any special circumstances, characteristics, or resources of the parolee.
- (6) Protection of the community.
- (7) Deterrence.
- (8) The availability of appropriate local sanctions.

Proposed law retains present law and adds the following parameters for DPSC when promulgating rules to implement a system of structured administrative sanctions for technical violations of parole:

- (1) Incarceration must not be used for the first or second lowest-level violations.
- (2) Incarceration must not be used for first or second violations of alcohol use or admission, except for defendants convicted of operating a vehicle while intoxicated; convicted of domestic abuse battery committed by one family member, household member, or dating partner against another; or convicted of violation of protective order committed by one family member, household member, or dating partner against another.

Proposed law provides that DPSC shall establish a system of structured administrative rewards for compliance with conditions and positive behavior that exceeds conditions of parole.

Present law defines "technical violation", as it pertains to the use of administrative sanctions to address a technical violation of parole, as any violation except the following:

- (1) Being arrested, charged, or convicted of any of the following:
 - (a) A felony.
 - (b) Any intentional misdemeanor directly affecting the person.
 - (c) At the discretion of the court, any attempt to commit any intentional misdemeanor directly affecting the person.
 - (d) At the discretion of the committee on parole, any attempt to commit any other misdemeanor.
- (2) Being in possession of a firearm or other prohibited weapon.
- (3) Failing to appear at any court hearing.
- (4) Absconding from the jurisdiction of the committee on parole.

Proposed law defines "technical violation", as it pertains to the use of administrative sanctions to address a technical violation of parole, as any violation of a condition of parole except the following:

- (1) A new felony conviction.
- (2) A conviction for an intentional misdemeanor directly affecting the person.
- (3) An allegation of a subsequent criminal act that if proven would be a crime of violence.
- (4) An allegation of a subsequent criminal act that if proven would be a sex offense.

- (5) An allegation of domestic abuse battery committed by one family member, household member, or dating partner against another.
- (6) An allegation of violation of protective order committed by one family member, household member, or dating partner against another.

Present law provides that when a detainer is issued by a parole officer, the running of the period of parole shall cease as of the time the detainer is issued.

Proposed law retains present law and provides that when a detainer is issued by the parole officer for the commission of a new crime, it is enforceable until bond is set by the sentencing judge, at which time it shall expire and the parolee may be released upon the posting of the bond.

Present law provides that any offender who has been released on parole and whose parole supervision is being revoked for a technical violation shall be required to serve a sentence without diminution of sentence or credit for time served prior to the technical violation.

Proposed law decreases the length of sentence any offender who has been released on parole and whose parole supervision is being revoked for a technical violation shall be required to serve without diminution of sentence as follows:

- (1) For the first technical violation, from not more than 90 days to not more than 15 days.
- (2) For a second technical violation, from not more than 120 days to not more than 30 days.
- (3) For a third or subsequent technical violation, from not more than 180 days to not more than 45 days.

Proposed law provides that if an offender that completes 90 days of committee-recommended substance abuse treatment, he will receive 90 days of credit towards his term of parole.

Proposed law provides that an offender shall be given credit toward service of his sentence for time spent in actual custody prior to the revocation hearing while being held for a technical violation in a local detention facility, state institution, or out-of-state institution.

Present law defines "technical violation", as it pertains to revocation of parole for a technical violation, as any violation except the following:

- (1) Being arrested, charged, or convicted of any of the following:
 - (a) A felony.
 - (b) Any intentional misdemeanor directly affecting the person.
 - (c) At the discretion of the court, any attempt to commit any intentional misdemeanor directly affecting the person.
 - (d) At the discretion of the committee on parole, any attempt to commit any other misdemeanor.
- (2) Being in possession of a firearm or other prohibited weapon.
- (3) Failing to appear at any court hearing.

(4) Absconding from the jurisdiction of the committee on parole.

Proposed law deletes present law and defines "technical violation", as it pertains to revocation of parole for a technical violation, as any violation except a new felony conviction.

Present law provides for medical parole eligibility for offenders who are permanently disabled or terminally ill and not serving a sentence for first degree murder, second degree murder, or awaiting execution.

Proposed law retains present law.

Proposed law creates the medical furlough program to be administered by DPSC. Offenders who are ineligible for medical parole, not awaiting execution, and determined by DPSC to be a limited mobility offender or a terminally ill offender shall be eligible for medical furlough.

Proposed law defines "limited mobility offender" as any offender who is unable to perform activities of daily living without help or is totally confined to a bed or chair, including but not limited to prolonged coma and medical ventilation.

Proposed law defines "terminally ill offender" as an offender who because of an existing medical condition, is irreversibly terminally ill and defines "terminally ill" as having a life expectancy of less than one year due to an underlying medical condition.

Proposed law provides that offenders granted medical furlough shall be released upon securing the following placements for the duration of their furlough:

- (1) For limited mobility offenders, any acute care hospital, nursing home, or other healthcare facility.
- (2) For terminally ill offenders, any health care facility including but not limited to an acute care hospital, nursing home, or any other appropriate setting which is able to meet the needs of the terminally ill offender.

Present law provides that no offender shall be recommended for medical parole by DPSC until full consideration has been given to the offender's criminal history, length of time served in custody, institutional conduct, and a medical assessment of the offender's condition.

Proposed law retains present law and requires the same consideration be given before an offender is recommended for medical furlough by DPSC.

Present law provides that the authority to grant medical parole lies solely with the committee on parole and the committee may require additional evidence or that additional medical examinations be conducted.

Proposed law provides that present law shall also apply to medical furlough.

Present law provides that the parole term of an offender released on medical parole shall be for the remainder of the offender's sentence without diminution of sentence for good behavior.

Proposed law provides that present law shall also apply to medical furlough.

Present law provides that if the medical parolee's condition has improved such that he would no longer be eligible for medical parole, the committee may order that the offender be returned to the custody of DPSC to await a hearing to determine if his parole shall be

revoked.

Proposed law provides that present law shall also apply to medical furlough.

Present law provides that any offender whose medical parole is revoked due to an improvement in his condition shall resume serving the balance of his sentence with credit given for the duration of the medical parole.

Proposed law provides that present law shall also apply to medical furlough.

Present law provides that medical parole may be revoked for violation of any condition of the parole as established by the committee on parole.

Proposed law provides that present law shall also apply to medical furlough.

Present law provides that the committee shall promulgate rules necessary for the implementation of medical parole.

Proposed law provides that present law shall also apply to medical furlough.

Proposed law provides that, in addition to other duties, DPSC shall establish a procedure that provides for each offender required to serve a term of 180 days or more, a written case plan based on the results of an assessment of the offender's risk and needs. Proposed law further provides that implementation of such a procedure will only be to the extent funds are appropriated for this purpose and resources are available.

Proposed law provides that for offender's eligible for administrative parole, DPSC shall notify the committee in writing of the offender's compliance or noncompliance with the case plan not less than 60 days before an offender's administrative parole release date. Proposed law further provides that implementation of such a procedure will only be to the extent funds are appropriated for this purpose and resources are available.

Present law provides that, when funds are provided, educational, job skills training, values development, and other programs shall be available at each institution under DPSC and offenders may be awarded up to 90 days toward the reduction the projected good time parole supervision date for satisfactory participation, but no offender shall receive more than 360 days total credit.

Present law provides that any offender sentenced as a habitual offender may earn additional good time credit for participation in programs provided for in present law unless the offender was convicted of a sex offense or a crime of violence.

Proposed law provides that any offender sentenced as a habitual offender may earn additional good time credit for participation in programs provided for in present law unless the offender's instant offense is one of the following:

- (1) A sex offense.
- (2) A crime of violence and the offender has two or more prior convictions of a crime of violence or a sex offense.

Proposed law provides that offenders who are eligible to participate in the work release program shall be eligible to earn an additional 180 days of credit towards the reduction of the projected good time parole supervision date.

Effective July 1, 2017; provides however, if the bill which originates as Senate Bill ___ of the 2017 Regular Session which classifies felony crimes is not enacted, any amendments to present law in the provisions of this Act referencing those classes shall be void.

(Amends C.Cr.P. Arts. 893(A) and (B), 899.1(A)(intro para), (B) and (D), 900(A)(5), (6), and (7), and 903.1, R.S. 13:5304(B)(10)(b) and (c), R.S. 15:571.3(B) and (D), 574.2(C)(1) and (2) and (D)(1), (6)(intro para), (8)(a) and (9), 574.4(A)(1) and (2), (B)(1) and (C)(2), 574.4.1(A)(1), 574.4.2(B), 574.4.3(A)(1), 574.6, 574.7(B), 574.9(D), (E), (F) and (G), 574.20, and 828(B) and (C); adds C.Cr.P. Arts. 893(G), 895.6 and 895.7 and R.S. 15:574.2(C)(4), 574.4(F), 574.9(H), 827(A)(7) and 828(D))